



Arizona Supreme Court
Administrative Office of the Courts
Defensive Driving Program

Rules for Administration

including

Certification of Schools

and

Certification of Instructors

of the

Defensive Driving Program

G Arizona Code of Judicial
Administration ' 7-201

G Arizona Code of Judicial
Administration ' 7-205

G Policies for Certification of
Alternative Delivery Formats

G Defensive Driving Statutes

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PREFACE

The Supreme Court's responsibility under A.R.S. ' 28-3395 is to establish rules, criteria and procedures for the certification of qualified defensive driving schools that offer courses as diversion programs for Arizona courts, and for the operation of the Program. These rules, criteria and procedures were initially established in 1989 and 1990 through the collaboration of the School Advisory Group, the Arizona Judicial Council's Committee on Defensive Driving, and Supreme Court staff. The School Advisory Group represented school concerns and advised the Supreme Court staff in formulating quality standards and operational procedures. Similarly, the Committee on Defensive Driving represented the court's perspective and reviewed the criteria and procedures to make recommendations for a quality program. In 2001, the original format of the rules, criteria and procedures was changed and was rewritten into sections of the Arizona Code of Judicial Administration (' 7-201, or General Rule 1, and ' 7-205). General Rule 1 was in effect through December 2003, when ' 7-201 was adopted and placed into effect on January 1, 2004; ' 7-205 was placed in effect on March 1, 2001, and it was amended on November 19, 2002.

The Supreme Court recognizes that defensive driving schools provide valuable services to the courts and to the public. When individuals are diverted into a course, the courts are relieved of the majority of tasks associated with processing traffic citations. The public receives benefits from the education in traffic safety provided by the schools and from ticket dismissal.

The Supreme Court hopes that by ensuring the quality of defensive driving schools and defensive driving instructors, the public's willingness and ability to drive safely will improve. It is not the Supreme Court's intention to over-regulate the defensive driving school industry, but to satisfy the needs of the courts and the public for a quality diversion program.

The defensive driving school certification criteria and operational standards contained in ' 7-205 are believed to be the minimum standards necessary to establish a quality defensive driving program. The Supreme Court is dedicated to implementing and enforcing these rules. However, if certain requirements or operational procedures adopted herein are found to be unreasonable or unworkable in practice, the Administrative Director may recommend adoption of amended proposals after an adequate review process. Comments may be directed to the Program Manager, Defensive Driving Program, 1501 West Washington, Suite 104, Phoenix, Arizona 85007. Additional information about the Defensive Driving Program can also be found on the Arizona Supreme Court, Administrative Office of the Courts' internet website.

PART I - Administrative Order No. 2003-109

Arizona Code of Judicial Administration,
Section 7-201

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-201: General Requirements

A. Definitions.

Active(means a valid and existing certificate to practice in the specified profession.

(Advice(or **(advisory letter**(means written communication reminding a certificate holder of the obligations of certification, or an instruction designed to assist the certificate holder in improving or modifying behaviors or procedures.

(Censure(means an official statement of displeasure identifying a certificate holder has violated a provision of the applicable sections of the Arizona Code of Judicial Administration (ACJA) or statutes.

(Certificate holder(means any entity or individual granted certification pursuant to the applicable ACJA section and Arizona law.

(Certification(means a certificate issued by the program coordinator to a person or entity when the person or entity has met all requirements for certification, pursuant to the applicable ACJA section and Arizona law and has been granted an authorized document and certification number attesting the certificate holder may exercise the privileges of certification.

(Complaint(means a written statement of allegations against a certificate holder that initiates an investigation.

(Deputy director(means the deputy director of the administrative office of the courts (AOC), or the deputy director(s) designee.

(Director(means the administrative director of the courts, or the director(s) designee.

(Disciplinary action(means a decision to begin either informal or formal disciplinary proceedings against a certificate holder, after a finding of probable cause the certificate holder has committed misconduct.

(Expired(means the certificate of a certificate holder has lapsed on the specified expiration date, the certificate has not been renewed and the certificate holder is no longer authorized to practice in the specified profession or occupation.

(Formal disciplinary proceedings(means the process initiated upon a finding of probable cause where a document is served on a certificate holder setting forth specific acts of alleged misconduct by the certificate holder and notifying the certificate holder of the intent to seek disciplinary action and the certificate holder(s right to request a hearing.

(Good cause(means a legally sufficient ground or reason, based upon the circumstances of the presented case.

(Hearing officer(means an individual appointed pursuant to this section, to preside over an administrative hearing regarding the denial of initial or renewal certification or a complaint regarding alleged misconduct of a certificate holder.

(Inactive(means a certificate holder who voluntarily decides to not practice in the specified profession or occupation for a specified period of time and who is not the subject of any pending disciplinary action.

(Informal disciplinary proceedings(means the process initiated when a determination is made that the alleged misconduct by the certificate holder does not warrant the filing of formal charges.

(Letter of concern(means communication stating a certificate holder has violated a provision of the applicable sections or statutes and a finding by the director informal discipline is appropriate.

(Probable cause(means reasonable grounds for belief in the existence of facts concerning alleged misconduct by a certificate holder, warranting the filing of informal or formal charges against the certificate holder.

(Probation(means a sanction that allows the certificate holder to practice in their profession or occupation under specified conditions.

(Program coordinator(means the staff appointed by the director to administer a program.

(Program specific section(means the adopted section of the ACJA applicable to a specified profession or occupation governed by this section, specifically, (7-202: Fiduciaries; (7-203: Confidential Intermediary and (7-205: Defensive Driving Program.

(Registration(means, for the purposes of this section and the program specific sections, the same as (certification.(

(Revoked(or (revocation(means a certificate is terminated as a result of disciplinary action, after a finding of probable cause pursuant to formal disciplinary proceedings.

(Sanction(means an explicit and official action by the director resulting from a certificate holder(s failure to comply with the laws, court rules, ACJA sections or court orders relevant to the certificate holder(s profession or occupation. (Section(means the referenced provision of the ACJA.

(Suspended(or (suspension(means a certificate is not revoked, but the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as the result of disciplinary action by the director.

(Valid(means a certificate currently in effect, issued and signed by authorized staff of the applicable program and not expired, surrendered, suspended, or revoked.

(Voluntary resignation(means a process where a certificate holder voluntarily decides to discontinue practice in the specified profession or occupation and surrenders their certificate to practice.

B. Applicability.

This section is read together with the program specific section applying to the applicant(s or certificate holder(s profession or occupation. In the event of any conflicts between this section and the program specific section, the program specific section shall govern. Reference to (these sections(refers to ACJA (7-201: General Requirements and the program specific sections. (7-201 applies to certification of confidential intermediaries pursuant to A.R.S. (8-134 and ACJA (7-203, certification of fiduciaries pursuant to A.R.S. (14-5651 and ACJA (7-202 and certification of defensive driving schools and instructors pursuant to A.R.S. ((28-3395 through -3399 and ACJA (7-205.

C. Purpose.

This section specifies the application, certification and renewal of certification and the complaint, disciplinary and hearing process for the certification programs. The purpose of the certification and discipline processes is protection of the public.

D. Administration.

1. Role and Responsibilities of the Supreme Court.

Pursuant to A.R.S. (8-134(I), (14-5651(A) and (28-3395(B), the supreme court is responsible for administering the Confidential Intermediary Program, Fiduciary Program and Defensive Driving Program.

2. Role and Responsibilities of the Director.

- a. The director: Shall develop application and renewal forms, training, certification examinations and policies and procedures in conformity with this section and the program specific sections, ((7-202, -203 and -205. The director is responsible for enforcement of the applicable laws, this section and the section of the ACJA applicable to each profession or occupation. The director may delegate any other person to exercise or discharge any power, duty or function, whether ministerial or discretionary, vested in the director. The designated person shall act on behalf of the director and by delegated authority.
- b. Has the authority to approve or disapprove matters of administration of each program.

- c. May appoint an advisory committee to make recommendations on any matter and may develop guidelines for the appointment, term of appointment of committee members and meeting requirements.
- d. Shall resolve complaints alleging misconduct by certificate holders and may take any of the actions specified in subsection H(24).
- e. May, pursuant to the ACJA, administrative orders and A.R.S. (41-2401(D)(8), initiate an audit or review of a certificate holder to determine if the certificate holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA including the codes of conduct and any other legal or ethical requirement relating to the certificate holder(s) profession or occupation. The following provisions apply to audits or reviews:
 - (1) Confidentiality.
 - (a) Working papers associated with the audit or the review of files maintained by the programs are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the attorney general, county attorney or law enforcement agencies.
 - (b) Upon completion of an audit or review the final report issued to the affected party is a public record subject to public inspection.
 - (2) Subpoena. e director may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the audit or review.
 - (3) Referral. Where appropriate, the director may refer the audited or reviewed certificate holder for investigation by a pertinent agency, including investigation by the program specific to the certificate holder(s) profession or occupation.
 - (4) Violations or Noncompliance. Willful violation of or willful noncompliance with an order of the director regarding the audit or review; or willful noncompliance with a corrective action plan resulting from an audit or review, may result in an order directing the certificate holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of the person or the compliance with the director(s) order, or both. The superior court may treat the failure

to obey the order as contempt of court and may impose penalties as though the certificate holder had disobeyed an order issued by the superior court

3. Role and Responsibilities of the Deputy Director.

The deputy director shall:

- a. Serve as the probable cause panelist to review the recommendations of staff regarding a complaint alleging misconduct by a certificate holder, pursuant to subsection H(4);
- b. May, on the deputy director(s) own initiative, direct staff to initiate an investigation into alleged misconduct by a certificate holder pursuant to subsections H(3) or H(4); and;
- c. Serve in place of the director, when designated by the director.

4. Role and Responsibilities of the Program Coordinator.

The director shall designate a program coordinator. The program coordinator shall administer the program in compliance with applicable statutes, court rules, administrative orders, this section and the program specific section.

5. Computation of Time.

For the purposes of this section and the program specific section, the computation of days is calculated as follows: if less than 11 days, intermediate Saturdays, Sundays and legal holidays are not included in the computation and if 11 days or more, intermediate Saturdays, Sundays and legal holidays are included in the computation.

E. Initial Certification.

1. Eligibility for Application.

An applicant who meets the required eligibility for certification, as specified in this section and the program specific section, may apply for certification.

2. Application for Initial Certification.

- a. Forms. An applicant shall apply for certification on forms provided by the program. The applicant shall sign the completed application, have it duly verified under oath and file it with the program.
- b. Fees. The program shall collect in advance the applicable certification and training fees specified in the program specific section. The fees are

not refundable. An applicant shall make the payment payable to the Arizona Supreme Court, AOC.

- c. Fingerprinting. If required by the program specific section, pursuant to law, the applicant shall submit a full set of fingerprints, with the fee established by law, to the program for the purpose of obtaining a state and federal criminal records check.
 - (1) The applicant shall provide the program with a readable fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
 - (2) The program shall require the applicant, if definitive fingerprints are not obtainable, to make a written statement, under oath, that the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application. If the applicant fails to provide the statement, the program coordinator shall refuse to further process the application.
 - (3) The program coordinator may waive the requirement for a fingerprint card and the criminal background check if the applicant has previously provided a fingerprint card to the program and the background check of the applicant has been completed.
 - (4) The program shall submit completed applicant fingerprint cards and the applicable fees to the Arizona Department of Public Safety, in accordance with A.R.S. (41-1750 and Public Law 92-544.
- d. Initial Training. If required by the program specific section, an applicant shall attend and complete the initial training session. The program coordinator shall provide the applicant with a document signifying the applicant completed the training. If required by the program specific section, an applicant shall attend the entire training session for eligibility to sit for a certification examination.
- e. Examination. If required by the program specific section, an applicant shall take and pass the examination for initial certification.
 - (1) Administration of the Initial Examination: In administering the examination, the program coordinator shall:
 - a. Offer the examination on dates in conjunction with the initial training for certification, if initial training is required by the program specific section;

- b. Establish a passing grade on the examination and announce this prior to administering the test;
- c. Use multiple versions of the test and ensure no copies of the test are released to applicants or the public;
- d. Inform each applicant in writing as to whether the applicant passed or failed the examination and if the grade is failing that a reexamination is required; and
- e. Make and keep an accurate record of each examination used at each administration of the examination and the score of each person taking the examination.

(2) Administration of Reexaminations. The program coordinator shall allow an applicant who fails the examination to:

- a. Review the examination papers and grades of the applicant, upon written request. The applicant shall conduct the review during business hours in the presence of program staff and the applicant shall not copy materials provided for the review.
- b. Retake the examination one time under the following conditions:
 - i. The applicant is not disqualified from retaking the examination;
 - ii. The applicant sent a written request to retake the examination to the program coordinator within 30 days of the date of the receipt of the examination results; and
 - iii. The applicant takes the reexamination within 90 days of the date of the notice of the examination results.

f. Additional Information. The program coordinator may require the applicant to provide additional information reasonably necessary to determine if the applicant meets the qualifications specified in this section and the program specific section.

g. Incomplete Applications. The program coordinator may not process an application until the application is complete.

3. Decision Regarding Certification.

- a. Notification of Certification. The program coordinator shall promptly certify and notify qualified applicants of certification in writing, in accordance with this section and the program specific section. Each qualified applicant shall receive a document, badge or card evidencing certification, stating the applicant(s)

name, date of certification, certificate number and expiration date of the certification. Each certificate shall expire as provided in the program specific section. In addition, unless previously provided, each applicant granted certification shall receive a copy of this section and the program specific section, detailing the responsibilities of the certificate holder.

- b. Certificate Status. All certificates are valid until expired, surrendered, suspended, or revoked.
- c. Denial of Initial Certification.
 - (1) The program coordinator shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements described in this section or the program specific section or has not submitted the applicable documents and fees.
 - (2) The program coordinator may deny certification of any applicant for good cause if one or more of the following is found:
 - a. Material misrepresentation, omission, fraud, dishonesty, or corruption in the application form or attempt to obtain the certification, or in the examination for certification. An applicant(s failure to disclose information on the application, subsequently revealed through the fingerprint background check or the investigation of the applicant(s application for certification, may constitute good cause for denial of certification;
 - b. A record of any act constituting material misrepresentation, omission, fraud, dishonesty or corruption on the part of the applicant or an officer, director, partner, member, trustee, or manager of the applicant in business or financial matters;
 - c. A record of conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;
 - d. A record of a series of complaints by the public, the court or other licensing and regulatory entities;
 - e. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has a record of conviction by final judgment of a felony, regardless of whether civil rights have been restored;
 - f. A record of conviction by final judgment of a misdemeanor involving moral turpitude of the applicant or an officer, director, partner, member, trustee, or manager of the applicant or conviction of a crime that has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;

- g. Denial, revocation, suspension or any censure of any professional or occupational license or certificate of the applicant or an officer, director, partner, member, trustee, or manager of the applicant;
 - h. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft or conversion;
 - i. The applicant or an officer, director, partner, member, trustee, or manager of the applicant is currently on probation, parole, or named in an outstanding arrest warrant of any court;
 - j. The applicant or an officer, director, partner, member, trustee, or manager of the applicant as violated any decision, order, or rule issued by the profession(s or occupation(s certification program;
 - k. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has violated any order of a court, judicial officer or administrative tribunal;
 - l. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has made a false or misleading statement or verification in support of an application for a certificate filed by another person;
 - m. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has made a false or misleading oral or written statement to the program;
 - n. The applicant or an officer, director, partner, member, trustee, or manager of the applicant has failed to respond or furnish information to the program when the information is legally requested by the program and is in the certificate holder(s control; or
 - o. If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.
- (3) The program coordinator shall promptly, in writing, notify each applicant denied certification of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection E(3)(c)(4).
- (4) An applicant is entitled to a hearing, on the decision to deny certification if a written request for a hearing is received by the program within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections

H(10) through H(23), H(25) and H(27) apply regarding procedures for the hearing and appeal.

- d. Time Limits on Certification. Applicants shall respond timely to requests for information from the program coordinator and program staff pertaining to their application. Unless the applicant can show good cause as to why the program coordinator should grant additional time, the program coordinator shall not approve any applicant for certification unless the applicant successfully completes all requirements within twelve months of initial application for certification or passing the program specific examination for certification. Failure to complete the certification process within this time period shall nullify and void all applicable examination scores and the applicant shall be required to successfully retake all required examinations and pay the appropriate fees.
- e. Access to Records of Applicants for Certification and Certificate Holders. Unless otherwise provided by law, the following applies to applicant and certificate holder records:
 - (1) Applicant records are not open to the public except for the name of the applicant; and
 - (2) Certificate holder(s) certification records are open to the public, after home addresses, home or cellular telephone numbers, social security numbers and all other personally identifying information, except for the name of the certificate holder, have been redacted.
- f. Retention of Records. The program shall retain the records of applicants or certificate holders for a period of five years from the last activity in the record.
- g. Unlawful Use of Designation or Abbreviation. A person who has received from the program coordinator a certificate to practice in the program specific profession or occupation is authorized to utilize the designation of (Arizona certified(in connection with their title or name and may use any appropriate abbreviation connected with this certification. No other person or business shall assume or use the title, designation or abbreviation or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the person or business holds valid certification issued by the Arizona Supreme Court in the specified profession or occupation.

F. Role and Responsibilities of Certificate Holders.

1. Code of Conduct.

Each individual certificate holder shall adhere to a program specific code of conduct if adopted by the supreme court.

2. Identification.

If required by the program specific section, or upon request by any judicial officer, court employee or member of the public, a certificate holder shall provide proof of certification.

3. Assumed Business Name.

A certificate holder shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the legal name of the individual or business entity unless the person or business entity files with the program a statement indicating the name for transaction of the business and the legal full name of the certificate holder.

4. Response.

An applicant or certificate holder shall respond to requests for information from and shall provide documents to the director, deputy director, program coordinator and program staff pertaining to certification, renewal of certification, complaints alleging misconduct by the certificate holder, investigative inquiries by the director, deputy director, program coordinator or program staff, and any audits or reviews of the practice of the certificate holder. The certificate holder shall respond to any subpoenas or orders issued by the director or any judicial officer. Failure to comply with this subsection by an applicant for certification constitutes good cause to deny the application for certification or renewal of certification. Failure to comply with this subsection by a certificate holder constitutes grounds for discipline.

5. Candor.

A certificate holder shall not knowingly:

Make a false statement of material fact or law to a tribunal; or

Fail to disclose a material fact to a tribunal, except as required by applicable law.

6. Change of Name or Address.

A certificate holder shall notify the program of any change in name or business, directory, mailing or home address, telephone number or email address within 30 days of any change. The certificate holder shall make this notice in writing by U.S. Post, facsimile or email.

7. Voluntary Resignation.

A certificate holder in good standing may resign a certificate, however, the resignation is not valid until accepted by the program coordinator. The program coordinator may require additional information reasonably necessary to determine if the certificate holder has violated any provision of this section or the program specific section. The program coordinator shall, within 120 days of the receipt of the voluntary resignation of the certification, either accept the resignation, or the deputy director, based upon the recommendations of the program coordinator, shall institute disciplinary proceedings pursuant to subsection H(1)(a). Upon acceptance of the voluntary resignation, the program coordinator shall designate the certificate of the certificate holder as a Resigned certificate holder in good standing.® The resignation does not prevent the commencement of subsequent discipline proceedings for any conduct of the resigned certificate holder occurring prior to the resignation. If the director subsequently imposes a sanction upon the certificate of the resigned certificate holder pursuant to subsections H(24) and H(25), the program coordinator shall change the status of the resigned certificate holder(s from (resigned certificate holder in good standing(to that of a person so disciplined. The program coordinator shall not accept the resignation if there is a disciplinary complaint pending against the certificate holder.

8. Inactive Status.

A certificate holder may transfer to inactive status, upon written request to the program coordinator. Upon acceptance by the program coordinator, the certificate holder shall be placed on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder. Upon application and payment of any applicable reactivation of certification fee,

required by the program specific section, the program coordinator shall return the inactive certificate holder to active status.

G. Renewal of Certification.

1. Expiration Date.

Certificates shall expire on the date specified by the program specific section. When a certificate holder has filed a timely and complete application for the renewal of certification, the existing certification does not expire until the administrative process for review of the renewal application has been completed. If the renewal application is denied, the existing certification does not expire until the last day for seeking a hearing on the decision pursuant to subsection E(3)(c)(4), or if a hearing is requested, until the final decision is made by the director pursuant to subsection H(25). Any certification for which the request for renewal and payment of the fee is not received by the program shall expire as of the expiration date in the program specific section. The program coordinator shall treat any renewal application received after the expiration date as a new application.

2. Application.

The certificate holder is responsible for applying for a renewal certificate. The certificate holder shall apply for renewal of certification on the form provided by the program. The program coordinator may set a deadline renewal application date, in advance of the expiration date, to allow a reasonable time frame for processing the renewal application.

3. Additional Information.

Before granting renewal of certification, the program coordinator may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include fingerprinting pursuant to subsection E(2)(c) or background information, pursuant to subsection E(2)(f) and the program specific section.

4. Decision Regarding Renewal.

- a. The program coordinator may renew a certification if the certificate holder meets all requirements for renewal as specified in this section and the program specific section and pays the renewal fees on or before the expiration date as specified by the program specific section.

- b. The program coordinator shall promptly notify qualified applicants in writing of the renewal of their certification in accordance with this section and the program specific section. Each certified applicant shall receive a document, badge or card evidencing certification, stating the applicant(s name, date of certification, certification number and expiration date.
- c. The program coordinator may deny renewal of certification for any of the reasons stated in subsection E(3)(c).
- d. The program coordinator shall promptly notify, in writing, each applicant denied renewal of certification, the reasons for the denial of renewal of certification and the right of the applicant to a hearing, pursuant to subsection G(4)(d).
- e. An applicant is entitled to a hearing, on the decision to deny renewal of certification if a written request for a hearing is received by the program within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections H(10) through H(23), H(25) and H(27) apply regarding procedures for hearing and appeal.

H. Complaints, Investigation, Disciplinary Action and Hearings.

1. Complaint.

- a. All judicial officers and court employees shall, and any person may, notify the program if it appears a certificate holder has violated this section or the program specific section. The complainant shall provide the complaint in writing with sufficient specificity to warrant further investigation. The complaint shall also provide the name and telephone number of the complainant. The deputy director may authorize the program coordinator to accept a verbal complaint if the complainant is unable or unwilling to provide the complaint in writing. In addition, the deputy director may proceed with an investigation, without a written complaint, pursuant to subsection H(3)(a).
- b. A certificate holder is subject to disciplinary action if the director finds one or more the following applies to the certificate holder:
 - (1) Violation of or noncompliance with applicable laws, a court order or an order of the director, or any provision of court rules, this section or the program specific section;

- (2) Failure to perform any duty to discharge any obligation in the course of the certificate holder(s) responsibilities as required by law, this section or the program specific section; or
 - (3) The existence of any cause for which original certification or renewal of certification could have been refused pursuant to subsections E(3)(c) or G(4)(c) and the program specific section.
- c. The expiration provisions described in subsection G(1) and the program specific sections do not affect the right of the director to investigate and take disciplinary action regarding the certification of a certificate holder if a complaint or investigation is pending prior to the expiration date.
- d. The director shall dispose of a complaint by dismissal, referral to another entity with jurisdiction or imposition of one or more informal or formal sanctions, as provided by subsection H(24).

2. Initial Screening.

The program coordinator shall determine if a complaint warrants further investigation and evaluation. If the program coordinator determines the complaint is outside the jurisdiction of this section, the program specific section and the laws applicable to the program, the program coordinator shall recommend to the deputy director the complaint be dismissed. The director, deputy director or program coordinator may refer the complaint to another state agency or entity with jurisdiction, if appropriate.

3. Preliminary Investigation and Recommendation.

- a. Preliminary Investigation. The deputy director, upon the deputy director(s) own initiative, or upon receiving a complaint, may direct the program coordinator and program staff to conduct an investigation of the complaint to determine if a certificate holder has violated Arizona law, this section, or the program specific section; or for the purpose of securing information useful in the lawful administration of the law, this section, or the program specific section. An investigation is not a prerequisite to disciplinary proceedings under this section if probable cause can be determined without an investigation.
- b. Conducting the Investigation. The deputy director shall direct the program coordinator and program staff to conduct all investigations promptly, discreetly and confidentially; and may designate one or more persons of

appropriate competence to serve as investigators to assist in the investigation.

- c. Response from Certificate Holder. The program coordinator or program staff shall send the complaint to the certificate holder within a reasonable period of time after commencement of the investigation and shall require the certificate holder provide a written response. The program coordinator, program staff, deputy director and director shall not proceed with disciplinary action without providing the certificate holder the complaint and the opportunity to respond. Failure by the certificate holder to respond shall not prevent the program coordinator, program staff, deputy director or director from proceeding with an investigation and disciplinary action.
- d. Preparation of Staff Recommendations. Upon completion of the preliminary investigation, the program coordinator and program staff shall prepare a written case summary of the investigation results for review by the probable cause panelist. The summary shall include staff recommendations for disposition of any alleged violations.

4. Probable Cause Review.

The deputy director, acting in the capacity of a probable cause panelist, shall review the written case summary. The deputy director may agree or disagree with the recommendations contained in the written case summary and may do one or more of the following:

- a. Direct program staff to investigate further;
- b. Recommend the director refer the complaint to another entity with jurisdiction;
- c. Determine probable cause does not exist that the certificate holder has committed misconduct and recommend the director dismiss the complaint. The deputy director shall direct program staff to prepare a notice of dismissal and forward the notice of dismissal to the director within the time frames specified by subsection H(6);
- d. Direct the program coordinator to send an advisory letter to the certificate holder;
- e. Make a determination of probable cause that misconduct by the certificate holder has occurred and recommend to the director:
 - (1) The complaint is appropriate for resolution through informal disciplinary proceedings pursuant to subsection H(8);

- (2) The alleged violations constitute formal charges and direct staff prepare the notice of right to hearing and proceed as provided in subsection H(9); or
- (3) The alleged violations constitute formal charges and require emergency summary suspension action pursuant to subsections (H)(5) and H(9).

5. Emergency Summary Suspension.

On a determination of probable cause, if the director finds the public health, safety or welfare requires emergency action and incorporates a finding, the director shall order emergency summary suspension of a certificate holder while the formal disciplinary proceedings are pending. The director shall order program staff to institute the formal disciplinary proceedings within the time frames specified in subsection H(6). The program coordinator shall immediately serve the certificate holder with the notice of the emergency summary suspension and shall notify all applicable courts including superior court presiding judges, clerks of the superior court and superior court administrators of the emergency summary suspension.

6. Processing Time Frames.

The program staff shall:

- a. Prepare and forward a notice of dismissal to the director, within fifteen days after the determination by the deputy director there is no probable cause, unless the deputy extends the time for good cause;
- b. File a notice of informal or formal disciplinary proceedings no later than 60 days from the date of determination of probable cause, unless the deputy director extends the time for good cause;
- c. File a notice of formal disciplinary proceedings no later than 30 days from the date of an order of emergency summary suspension pursuant to subsection H(5); and
- d. Process complaints timely, with the goal of processing 98 per cent of all complaints within 22 months from date of receipt to final decision by the director.

7. Confidentiality of Complaints.

The director, deputy director, program coordinator, program staff and court employees shall keep information or documents obtained or generated by the director, deputy director, program coordinator or court employees in the course of an open investigation or received in an initial report of misconduct confidential, except as mandated by court rules or by this section.

- a. Confidential information may also be disclosed during the course of an open investigation:
 - (1) To court staff, the attorney general, county attorney, law enforcement and regulatory officials; or
 - (2) If the director makes a finding the disclosure is in the best interest of the public and the interest is not outweighed by any other interests or is not contrary to law.
 - b. Once probable cause is determined all information and documents are open unless:
 - (1) Confidential by law or public record rules adopted by the supreme court; or
 - (2) If the deputy director, as probable cause panelist, determines further investigation is necessary, the information or documents involved in the further investigation shall remain confidential.
- 8. Informal Disciplinary Proceedings.
 - a. Commencement. On a finding of probable cause by the deputy director, the director may commence informal disciplinary proceedings if the director finds the complaint is appropriate for resolution through informal disciplinary proceedings.
 - b. Decision of the Director. On review of the recommendation of the deputy director, the director may resolve the complaint through informal disciplinary proceedings and impose an informal sanction pursuant to subsection H(24) or may take other action pursuant to this section. The provisions of subsection H(25) apply to the decision and order of the director. Informal disciplinary proceedings:
 - (1) Do not provide the certificate holder the right to a hearing;
 - (2) May result in the informal sanction of a letter of concern. A letter of concern may be imposed in combination with an advisory letter or with other sanctions imposed pursuant to formal disciplinary proceedings;
 - (3) Are not subject to judicial review pursuant to subsection H(27); and
 - (4) Are not confidential.
- 9. Formal Disciplinary Proceedings.
 - a. Commencement. The director may commence formal proceedings if the deputy director finds probable cause to believe the certificate holder has committed misconduct under this section and recommends the complaint is not appropriate for resolution through informal disciplinary

proceedings. The director, upon commencement of formal proceedings, may appoint a hearing officer pursuant to subsection H(14).

- b. Notice to Certificate Holder. The program coordinator shall serve the formal statement of charges on the certificate holder with a notice advising the certificate holder of the certificate holder(s) rights pursuant to this section. This notice shall comply with the provisions of subsection H(16).

10. Request for Hearing.

An applicant for certification or renewal of certification or a certificate holder who has been served with notice of the formal statement of charges may request a hearing within fifteen days of receipt of notice. All demands for a hearing shall specify:

- a. The ACJA subsection that entitles the person to a hearing;
- b. The factual basis supporting the request for hearing; and
- c. The relief demanded.

11. Default

A person who fails to request a hearing within the time provided is in default and the program coordinator or the director may proceed with denial of the certification, denial of renewal of certification, or disciplinary proceedings.

12. Non-abatement

Unwillingness, failure of the complainant to cooperate with the program, withdrawal of a charge, settlement, compromise between the complainant and the certificate holder, or restitution by the certificate holder shall not abate the processing of any complaint.

13. Status of Complainant

The complainant is not a party to the proceeding. The complainant shall receive notice of the final decision resulting from the complaint.

14. Appointment of Hearing Officer

The director may appoint a hearing officer, knowledgeable in conducting hearings, to conduct a hearing regarding the denial of initial or renewal certification of an applicant; or alleged misconduct by a certificate holder pursuant to this section or upon written demand by a person entitled to a hearing. The director may request the presiding judge of the superior court in the county where the alleged violation took place to supply the person for appointment as the hearing officer, a hearing room and any other necessary resources.

15. Time Line for Hearing.

The director or hearing officer shall ensure the hearing is held within 45 days of receipt of the request if the request is made by an applicant, unless postponed by mutual consent for good cause. If the request is from the program coordinator, the hearing officer shall ensure the hearing is held as soon as practical at the discretion of the hearing officer but no less than fifteen days after notice, as required by subsection H(16).

16. Notice of Hearing

The program coordinator shall prepare and give notice to the parties, at least fifteen days prior to the date set for hearing.

a. The notice shall include the following information:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction for conduct of the hearing;
- (3) A reference to the particular sections of the statutes, rules, ACJA sections and policies involved;
- (4) A short and plain statement of the allegations or factual basis supporting the relief requested. Amendments as necessary, are permitted; and
- (5) If the notice is for a violation or denial of certification and if the hearing date has not previously been set, a statement indicating the registrant or applicant is entitled to a hearing upon request, if a request is made in writing within fifteen days of receipt of the notice.

b. The program coordinator shall accomplish service of the notice by personal service or certified mail return receipt requested to the last business address of record with the program coordinator. Proof of service is made by filing with the hearing officer a verified statement service was made. Service by mail is complete upon deposit in the United States mail.

c. If a party is represented by an attorney, the program coordinator shall make service upon the attorney.

17. Filings, Answers and Pleadings.

a. Parties shall file answers to the notices within ten days after the date the notice is served, unless otherwise ordered by the hearing officer. Answers shall comply with the Arizona Rules of Civil Procedure. If a party fails to

file an answer within the time provided, the person is in default and the hearing officer may determine the proceedings against the party and admit one or more of the assertions contained in the notice. The hearing officer shall determine any defenses not raised in the answer are waived.

- b. Parties shall file all motions at least five days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer.
- c. Parties shall file responses to motions within five days of the filing of the motion.
- d. Copies of all filings shall be delivered to the executive office of the AOC, hearing officer, and all parties to the proceeding.

18. Discovery.

- a. No discovery is permitted, except as provided in this section, unless mutually agreed to by the parties or permitted by the hearing officer.
- b. The hearing officer, upon written request, shall order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, provided the evidence is not privileged.
- c. The hearing officer, on the hearing officer(s) motion or upon request, may require, prior to hearing, the disclosure of documentary evidence intended for use at the hearing, provided the evidence is not privileged.
- d. Parties may take depositions for use as evidence of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing. In order to take a deposition, a party shall file with the hearing officer a written motion, with copies to all parties, setting forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition and justification for the deposition.
- e. Parties shall file responses to requests for depositions, including motions to quash, within five days after the filing of the request for deposition.
- f. If a deposition is permitted, the hearing officer shall issue a subpoena and written order. The subpoena and order shall identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order with service on all parties five days before the time fixed for taking the

deposition unless, for good cause shown, the time is shortened by the hearing officer.

19. Subpoena.

- a. For the purpose of an investigation or hearing, the director or a hearing officer may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the subject of any hearing or investigation.
- b. If a person fails to obey a subpoena served in accordance with the provisions of this section, the director or hearing officer may forward a report of the disobedience, together with a copy of the subpoena and proof of service, to the superior court and request the superior court judge issue an order requiring the appearance by a person or the production of documents, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the person had disobeyed a subpoena issued by the court.
- c. Subpoenas shall be issued and served in the same manner as provided by the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.

20. Prehearing Conference.

The hearing officer may order a pre-hearing conference at the request of any party or on the hearing officer's own initiative. The purpose of the conference is to consider any or all of the following actions:

- a. To reduce or simplify the issues for adjudication;
- b. To dispose of preliminary legal issues, including ruling on pre-hearing motions;
- c. To stipulate to the admission of evidence, facts and legal conclusions not contested;
- d. To identify witnesses; and
- e. To consider any other matters to aid in the expeditious conduct of the hearing.

21. Procedure at Hearings.

- a. The hearing officer shall preside over the hearing. The hearing officer has the authority to decide all motions, conduct pre-hearing conferences, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, recess or adjourn

the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.

- b. Rights of Parties and Other Persons at a Hearing. At a hearing:
 - (1) A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of the proceeding.
 - (2) Any person may represent themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall promptly notify the hearing officer and the program coordinator providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer or principal may represent a business entity in any proceeding under this section.
 - (3) All persons appearing before a hearing officer in any proceeding shall conform to the conduct expected in the superior court.
- c. Conduct of Hearing.
 - a. The hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. The hearing officer may question witnesses and shall require any evidence supporting a decision is substantial, reliable and probative and shall exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury. All hearings are open to the public and shall conform with the provisions of ACJA (1-202:
 - b. Public Meetings. The hearing officer may close the hearing for executive session, pursuant to ACJA (1-202(C)(5). The hearing officer shall require all testimony considered is under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation. The hearing officer may administer oaths and affirmations.
 - c. In all matters brought at the request of the program, evidence in support of the program's action is presented first and carries the burden of proof. In matters brought at the request of someone other than the program, including requests for hearing on the denial of initial certification, renewal of certification or disciplinary matters, the person seeking the hearing shall present first and carries the burden of proof.
 - d. Record of Hearing.
 - (1) The hearing officer shall ensure the oral proceedings, or any part of the oral proceedings, are electronically recorded and on

request of any party are transcribed. The party making the request shall pay the cost of the transcript.

- (2) A certified court reporter shall make a full stenographic record of the proceedings if requested by a party within five days prior to a hearing and upon order of the hearing officer. The requesting party shall pay the cost of the transcript. The hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is a part of the court's record of the hearing and any other party having a direct interest shall receive a copy of the stenographic record at the request and expense of the requesting party. If no request is made for a stenographic record, the hearing officer shall ensure the proceedings are recorded as described in subsection H(21)(d)(1).

22. Recommendations of Hearing Officer.

The hearing officer shall, within 30 days of the closing of the record of a hearing, prepare written recommendations and deliver the recommendations to the director. The recommendations shall include findings of fact, based on a preponderance of the evidence and conclusions of law, separately stated.

23. Rehearing.

The hearing officer may grant a rehearing or reargument of the matters involved in the hearing upon written request of a party to a hearing. The requesting party shall file the written request with the hearing officer and the executive office of the AOC, within fifteen days after any order made pursuant to the hearing was mailed or delivered to the person entitled to receive the order. The hearing officer shall make the decision to grant or deny the request within 30 days of the date of filing of the request. The requesting party shall base the request for rehearing or review on one or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure, which materially affected the rights of a party and shall conform to the requirements of Rule 59. The hearing officer shall allow any party served with a request for rehearing to file a response within fifteen days of service.

24. Possible Actions for Resolution of a Complaint.

- a. Upon completion of an investigation concerning alleged misconduct by a certificate holder, which may or may not include informal or formal disciplinary proceedings or a hearing, in addition to any sanctions specified

in the program specific section, the director shall do one or more of the following:

- (1) Determine no violation exists and dismiss the complaint;
 - (2) Refer the complaint to another entity with jurisdiction;
 - (3) Order the program coordinator and program staff to conduct further investigation;
 - (4) Direct the program coordinator to issue an advisory letter, if the director believes, as a result of information obtained during an investigation that further instances or continuation of the behavior by the certificate holder may result in future disciplinary action against the certificate holder. The advisory letter shall remind the certificate holder of the obligations of certification or give instructions designed to assist the certificate holder in improving or modifying behaviors or procedures.
 - (5) Make a finding the certificate holder has violated any of the provisions of subsection H(1)(b) and order that emergency summary suspension is necessary, pursuant to subsection H(5);
 - (6) Make a finding the certificate holder has violated any of the provisions of subsection H(1)(b) and issue an order imposing any or a combination of the following informal or formal sanctions:
 - i. Issue a letter of concern;
 - ii. Issue a censure;
 - iii. Resolve the violation by consent order or other negotiated settlement between the parties;
 - iv. Place restrictions on a certificate with specified conditions;
 - v. Place the certificate holder on probation for a specified period of time;
 - vi. Mandate additional training for the certificate holder;
 - vii. Issue cease and desist orders;
 - viii. Order suspension of certification;
 - ix. Order revocation of certification;
 - x. Assess costs associated with these activities; or
 - xi. Impose civil penalties associated with these activities.
- b. The following provisions apply to the actions specified in subsection H(24)(a):
- (1) An advisory letter is not a form of discipline, is not an informal or formal sanction; is not appealable and is confidential. A certificate

holder may file a response with the director within fifteen days after receipt of an advisory letter.

- (2) An informal disciplinary proceeding may result in imposition of sanctions, but the sanction may not be a censure, restrictions on a certificate, probation, suspension or revocation of the certificate;
- (3) A letter of concern is an informal sanction;
- (4) Sanctions resulting from informal disciplinary proceedings are not appealable and are not confidential;
- (5) Informal discipline may be imposed in combination with formal discipline; and
- (6) The program coordinator shall provide written notice of the action by the director to the complainant, certificate holder and the parties, as applicable, pursuant to subsections H(24) and H(25).

25. Decisions and Orders

The director shall make the final decision or order in writing and shall include findings of fact and conclusions of law, separately stated. The director shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed. The program coordinator shall notify the parties personally, in writing, by mail to their last known address of any decision or order.

26. Procedure after Suspension or Revocation

- a. Upon suspension or revocation of a certificate the director shall timely serve notice upon the certificate holder either in person or in writing, by certified mail, return receipt requested, addressed to the last address on record with the program. Notice by mail is complete upon deposit in the United States mail.
- b. The director or program coordinator shall not again issue any certification under this section to any person whose certification has been revoked until after expiration of one year from date of revocation; and until the person again qualifies in accordance with the applicable provisions of this section and the program specific section.

27. Judicial Review

Decisions of the director pursuant to this section and the program specific section are final. Parties may seek judicial review through a petition for a special action pursuant to the Arizona Rules of Procedure for Special Actions.

PART II

ADMINISTRATIVE ORDER 2002-106 SECTION 7-205

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Programs of the Administrative Office of the Courts

Chapter 2: Certification and Licensing

Section 7-205: Defensive Driving Program

A. Definitions.

Adequate meal break(means a reasonable amount of time for a defensive driving student to travel to a suitable restaurant or similar establishment, eat and return to the location where the class is being held.

(Administrative director) means the director of the administrative office, Arizona Supreme Court, or the director(s) designee.

(Affidavit of compliance) means a signed document that affirms a certificate holder understands the requirements of the Arizona Code of Judicial Administration related to the certificate holder(s) function (school or instructor), is in compliance with those requirements and pledges to remain in compliance.

(Affidavit of eligibility) means a certificate on which defensive driving program participants affirm their eligibility to attend the program.

(Alternative delivery method) means a program other than a live classroom presentation by an instructor.

(Applicant) means the person, or an officer, director, partner, member, trustee or manager of an entity that is submitting a request for certification of a defensive driving school, or the person submitting a request for certification as a defensive driving instructor.

(Attend) means to begin a defensive driving course, whether at a classroom site or by receiving the materials to begin an approved alternative delivery method.

(Batch processing) means the method by which student records are transmitted to the Defensive Driving Tracking System in collections (multiple records are sent as one group).

(Business day) means any day, excluding Saturday and Sunday, not recognized by the state or federal government as an official holiday.

(Certificate holder) means any entity, or individual owner, contractor, coordinator, or officer for a defensive driving school, that is granted certification or a permit to operate a defensive driving school, or an instructor of defensive driving classes granted certification to teach for certified schools.

(Certification(means that an entity or individual has applied to, and is approved and granted an authorizing document by the Defensive Driving Program that attests the entity or individual has apparently met all tests and requirements for the granting of the certificate, may exercise the privileges of the certificate and shall comply with the requirements for certification, until expiration, revocation or suspension.

(Chief justice(means the chief justice of the Arizona Supreme Court.

(Class schedule directory(means a complete listing of a school(s classes for a specified advance period of time including instructor name, time of class, date, and location.

(Code(means the Arizona Code of Judicial Administration.

(Code section(means the referenced provision of the Arizona Code of Judicial Administration.

(Combined class(means a class that includes students from both the Defensive Driving Program and other programs, for example the Motor Vehicle Division Traffic Survival School Program.

AComplete@means (1) to begin and successfully finish a defensive driving class; or (2) the act of awarding a completion certificate as evidence a defensive driving class has been successfully completed; or, (3) the act of reporting a student's completion to a court and the Defensive Driving Program for the purpose of diverting a violation or as an element of sentence.

ACompletion certificate@means a document issued by a certified defensive driving school or the Defensive Driving Program that attests an individual has successfully completed a Defensive Driving Program class.

ACourse demonstration@means a presentation of an applicant school's complete program including all alternative delivery method options, presented to the Defensive Driving Program for the purpose of curriculum approval.

ACourt diversion fee@means the amount paid by the violator pursuant to A.R.S. ' 28-3396 for diverting a violation, collected by the defensive driving school and disbursed to the court with jurisdiction over the traffic violation. The court diversion fee is paid in lieu of any fine, penalty, or sanction that could have been imposed if the violator had been found responsible or guilty of the offense for which the violator attends a defensive driving school.

ACourt -ordered@means that an individual is directed by a judge, hearing officer or magistrate to attend and complete a defensive driving class as an element of sentence subsequent to a finding of responsible or guilty on a civil or criminal traffic case.

- ADatabase@means the Defensive Driving Tracking System which is the information system established pursuant to A.R.S. (28-3395(B)(3).
- (Decertification(means that an individual or an entity(s certification to operate a defensive driving school or present defensive driving classes is suspended or revoked.
- (Defensive driving course(means an educational and behavior modification presentation designed to teach safer driving practices and attitudes used for the purpose of court diversion or as an element of a sentence.
- (Defensive Driving Program(is the department and staff at the Administrative Office of the Courts (AOC), under the administrative director, that is responsible for carrying out the statutory requirements of A.R.S. (28-3395.
- (Defensive driving school(means an entity that provides an educational course designed to teach safe driving practices and attitudes that is offered for the purposes of court diversion or as an element of sentence for persons who receive eligible traffic citations as defined by A.R.S. (28-3392(A)(1) or (A)(2).
- (Defensive Driving Tracking System(means the database, instituted pursuant to A.R.S. (28-3395(B)(3) for the purpose of recording all individual completions of defensive driving courses for court diversion programs and court orders on or after July 1, 1990.
- (Designated contact(means the school owner, officer or staff person assigned or selected to represent a defensive driving school in matters dealing with the Defensive Driving Program and the AOC.
- (Diversion(means to allow a person cited for certain designated minor moving traffic violations to complete a defensive driving course to have a violation dismissed prior to adjudication without the necessity of contact with the court or court personnel or using court services.
- (Eligible civil traffic moving violation(means a violation included by A.R.S. (28-3392(A)(1) or (A)(2), where statute does not designate the offense as a misdemeanor nor a felony, the Motor Vehicle Division assigns points to the offense, and where the violation is not issued as the result of a collision that caused death or serious physical injury.
- (In-service update training(means class sessions presented on topics relevant to defensive driving classes or their presentation, that total at least six hours, and are presented or approved by the Defensive Driving Program for the purpose of improving the instructors(knowledge of defensive driving topics, methods of teaching, or other relevant topics.
- (Instructional time(means the time spent presenting the school's approved curriculum. Instructional time does not include breaks, meals, registration, audio visual set-up, or time devoted to other administrative functions. Instructional time includes time a student spends viewing the Defensive Driving Program-provided video for special needs and completing the accompanying workbook, or an approved alternative delivery format subject to the same exclusions as above.
- (Instructor(means a person who is certified by the Defensive Driving Program, to conduct defensive driving courses for a certified school, or in the case of alternative delivery methods where an instructor is not present, who serves as the school(s point of contact to answer student questions by telephone or electronic means.
- (Level one certificate(means the certification document issued to an instructor applicant allowing that individual to teach defensive driving classes while completing initial training and while accumulating the experience required to convert to level two certification as a defensive driving instructor.

- (Level two certificate(means the document issued to an instructor who has completed the first set of required continuing education classes consisting of at least six hours and has taught at least six defensive driving classes.
- (Level three certificate(means the document issued to an instructor who has completed the first two levels of continuing education classes consisting of at least twelve hours and has taught at least twelve defensive driving classes.
- (Level four certificate(means the document issued to an instructor who has completed the entire sequence of Defensive Driving Program training classes consisting of at least eighteen training hours and has taught at least eighteen defensive driving classes.
- (Multi-purpose agency(means an entity which conducts other traffic related classes or conducts other activities, services or sales, in addition to and apart from its court diversion business.
- (Negative state fee report(means a standard form (created by the Defensive Driving Program) that is submitted in lieu of payment of state fees and completion reports when no students completed a school(s defensive driving course during a reporting period and therefore, no state fees are due.
- (On-line(means that a defensive driving school submits student records to the Defensive Driving Tracking System through direct access, one record at a time.
- (Pre-service instructor seminar(means the course of study, formal or informal, by which a school prepares an instructor-trainee to present that school(s certified curriculum and complete any required administrative functions.
- (Primary provider(means a certified defensive driving school which has entered into a contract with a court or courts to provide defensive driving courses for court diversion and its related activities.
- (Probation(means a disciplinary action taken against a Defensive Driving Program certificate holder that allows the certificate holder to exercise the privileges of the certificate, subject to any restrictions imposed by the administrative director, while taking remedial action to correct the deficiencies identified by the AOC or through a disciplinary action brought under Code Section 7-201: General Requirements.
- (Program manager(means the person named by the administrative director to oversee the Defensive Driving Program. Program manager is interchangeable with the term (program coordinator(used in Code Section 7-201: General Requirements.
- (Provisional certificate(means a permit to present defensive driving classes issued to a chief instructor or school officer or staff person, where currency and training requirements are waived, when the individual has accumulated level four experience as a defensive driving instructor but does not intend to regularly present classes except as an emergency replacement for certified instructors.
- (Remedial course(means a class intended to correct repeat traffic offenders or required by the Motor Vehicle Division after an individual is convicted of a serious offense, for example reckless driving, or alcohol or drug related offenses. The Defensive Driving Program does not provide remedial courses.
- (Remittance report(means an explanatory report detailing individual student attendance, payments a court or the AOC receives, and any adjustments, that accompanies the disbursement check for court diversion or state fees.
- (Revocation(means a Defensive Driving Program certification is permanently invalidated or canceled.

- (Rules of court(means the Arizona Rules of Court.
- (School advisory committee(means the group consisting of representatives from each certified defensive driving school which meets to consider issues and advise the Defensive Driving Program on matters concerning the creation and implementation of legislation or rules affecting the Defensive Driving Program.
- (School database information(means the school information directory for defensive driving schools maintained for school and Defensive Driving Program use on the Defensive Driving Tracking System.
- (School fee(means the amount charged to each student by a certified defensive driving school for attending a defensive driving course that is retained by the school for its services.
- (Serious physical injury(means the same as provided by A.R.S. (13-105(34), that is: (Serious physical injury includes physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.(
- (State fee(means the amount mandated by A.R.S. (28-3397(A) and the amount mandated pursuant to A.R.S. (12-114(A) that are collected by each defensive driving school from each individual who begins a defensive driving course for diversion, or on the order of a court, that are remitted to the supreme court and accrue to the Defensive Driving School Fund and to the Judicial Collection Enhancement Fund respectively.
- (State fiscal year(means the state business year set from July 1 to June 30. Defensive Driving Program budgets, activities, certification cycles and records are all generally based on fiscal year.
- (Suspension(means a Defensive Driving Program certificate is not revoked, but the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as the result of a disciplinary action by the administrative director.
- (Valid(means currently in effect, issued and signed by authorized staff of the Defensive Driving Program and not suspended or revoked.

B. Applicability.

1. This code section applies to the certification of defensive driving schools and administration of the Defensive Driving Program pursuant to A.R.S. ((28-3391 through 3399.
2. Code Section (7-205: Defensive Driving Program, is read in conjunction with Code Section (7-201: General Requirements.
3. A defensive driving school shall obtain certification from the Defensive Driving Program before offering defensive driving diversion classes or services to any Arizona court or citizen, and shall comply with the requirements of this code section, and the requirements of Code Section (7-201: General Requirements.
4. This code section does not apply to educational providers established pursuant to other statutes mandating or governing educational programs administered by other agencies except where these providers also maintain certification as defensive driving schools.
5. Each school seeking initial certification or annual renewal shall meet and continually comply with these requirements. Failure to comply with these requirements following certification may result in the school being placed on probationary status, suspension of certification, revocation of certification, or refusal to renew certification, at the discretion of the administrative director.
6. Waiver of Requirements. The administrative director may waive time limits or schedules contained in this code section if the chief justice agrees.

C. Purpose.

The purpose of this code section is to provide rules and procedures for administration of the Defensive Driving Program including supervision of the use of the program by courts, certification and monitoring of schools and instructors, and requirements relating to the implementation, operation and maintenance of the Defensive Driving Tracking System.

D. Administration

1. Authority of the Administrative Director.

The administrative director has authority for administration of the Defensive Driving Program, Defensive Driving School Fund, and the certification and monitoring process for defensive driving schools and instructors that serve as court authorized diversion programs. The administrative director is authorized to establish policies, procedures, forms and reports necessary to administer the program.

- a. In accordance with A.R.S. (28-3395(B), the supreme court shall:

- (1) Supervise the use of defensive driving schools by the courts in this state;

- (2) Make public the amount of the court diversion fee assessed by each court in this state pursuant to this article [A.R.S. (28-3396)] and the total cost to attend a defensive driving school in each court;
 - (3) Establish an automated statewide data base for keeping a record of persons who attend a defensive driving school;
 - (4) Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts;
 - (5) Establish procedures for courts and schools to remit reports that are required by the Defensive Driving Program; and
 - (6) Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion.
- b. In addition to the duties specified by Code Section 7-201: General Requirements, the administrative director shall:
- (1) Prepare fiscal projections and create a budget based on those projections for the purpose of administering the Defensive Driving Program;
 - (2) Allocate and expend funds for administrative costs associated with the Defensive Driving Program and expend funds to further expedite the processing of all offenses in compliance with A.R.S. (28-3398(B));
 - (3) Contract when necessary for professional services to maintain the Defensive Driving Tracking System for assistance in certifying and monitoring defensive driving schools and instructors, or other necessary services pursuant to A.R.S. (28-3395(A));
 - (4) Appoint advisory groups and committees as necessary to facilitate implementation and administration of the Defensive Driving Program;
 - (5) Set a defensive driving program fee pursuant to A.R.S. (28-3397(A)); the administrative director may review and adjust the fee amount within the set limits;
 - (6) Collect and transfer the Judicial Collection Enhancement Fund surcharge pursuant to A.R.S. (12-114, for each person who attends a defensive driving school pursuant to a court diversion program or as part of a sentence imposed by a court;
 - (7) Set and collect certification and renewal fees from each applicant; and
 - (8) The administrative director may require that a primary provider or other Defensive Driving Program-related contract between a court and a defensive driving school or schools include specific provisions.
2. Authority of the Program Manager

The administrative director may designate a Defensive Driving Program manager. If designated, the program manager:

- a. Shall administer the Defensive Driving Program in compliance with statute, rules of court, administrative orders and the administrative code, under the guidance of the administrative director;
- b. Shall maintain a list of certified defensive driving schools for distribution to courts and the public. The program manager may charge the costs of copies of the certification list (or any other public records of the program) to the requesting party in accordance with Rule 123, Rules of the Supreme Court of Arizona, and this code;
- c. May perform periodic performance reviews of school administrative operations to ensure compliance with applicable requirements, policies, procedures and statutes. Following these reviews, the program manager shall prepare a report of the review findings which shall include each point of compliance or non-compliance;
- d. May require periodic financial audits of defensive driving schools;
- e. Shall implement a monitoring program and shall monitor each defensive driving instructor at least once every two years, or more often as necessary to ensure compliance with program requirements. The program manager shall determine the frequency of monitoring by considering instructor experience level, school size, number of classes held, frequency of problems encountered with all instructors or other factors;
- f. Shall collect all certification fees in advance. Certification fees are non-refundable. Schools shall pay certification fees by money order or certified check, unless the program manager waives this requirement. The program manager may waive receipt by certified check or money order if a school that is certified for more than twelve months has not had any checks returned for non-sufficient funds, and has not had any instances of late payment. The supreme court shall deposit the fees in accordance with A.R.S. (28-3397(C); and
- g. Shall maintain a schedule of certification and renewal fees as set by the administrative director.

3. Schools

- a. A defensive driving school shall not sell, transfer or assign its certification to any other entity.
- b. A defensive driving school may contract with a certified or non-certified third party for partial and specifically defined operations such as data entry,

- on-site testing, and program distribution. The school shall disclose any third-party operations as part of the certification application or subsequent amendments. The program manager shall review and approve the plan to determine if the operations proposed constitute a violation of defensive driving program rules or policies adopted by the director. This section applies to operations that involve the direct delivery of defensive driving services to the public, or where the contractor is performing elements of the required duties normally performed by the certified school. Incidental operations such as telephone service or internet service are not subject to the requirements of this section.
- c. Each certified school is responsible for all operational aspects including any elements or functions performed by contractors. Actions by non-certified third-party contractors constituting violations of this code or any other defensive driving program policy or rule are the responsibility of the certified school. The certified school is subject to disciplinary action as provided in these rules for any violations by contractors, when considered appropriate by the administrative director.
 - d. Each school shall maintain a business office and local telephone number in the state of Arizona through which the school(s) Arizona business is transacted. The Arizona office shall maintain and keep copies of all operational records including all Arizona student records required by this code section.
 - e. Each school shall notify the program manager of any change in the telephone number, business address, mailing address or home address of principals, officers and owners of the defensive driving school or any other required database information within three business days of the change.
 - f. Each school shall designate a contact within the state of Arizona who holds contracting authority for the school, with whom Defensive Driving Program staff can immediately communicate concerning program operation.
 - g. Each school shall comply with all applicable federal, state and local laws and regulations.
 - h. Each school, if a corporation, shall maintain "good standing" as defined by the Arizona Corporation Commission and shall submit a certificate of good standing issued by the Arizona Corporation Commission on request.
 - i. Each school shall fully disclose all current paid or unpaid officers, directors, owners and board of directors.
 - j. Each school shall have valid federal and state tax identification numbers, as required by state or federal law.

- k. Each school shall remain current on informational filings with the state of Arizona as required.
- l. Each school shall remain current on workman's compensation and unemployment insurance as required by law.
- m. Each school shall purchase and maintain commercial general liability insurance including incidental malpractice with a minimum combined single limit of \$1,000,000 per occurrence.
 - (1) Each policy shall name the state of Arizona, the supreme court and, if applicable, each court with which the school has primary provider contracts, as additional insured parties.
 - (2) Schools shall purchase coverage in forms approved by the administrative director. Insurers shall be licensed to do business in the state of Arizona, with minimum ratings as specified by the Arizona Department of Administration. The administrative director may disapprove the use of specific insurers.
 - (3) Defensive driving schools that are part of a self-insured governmental entity shall submit documentation from the governmental entity stating the school's coverage.
 - (4) The administrative director may require a bond to guarantee payment of diversion and state fees.
- n. Each school shall allow only supreme court certified instructors to present defensive driving classes, except that an instructor-in-training may present a class or portions of a class under the direct and present supervision of a certified instructor.
- o. Each school shall use only the curriculum and materials approved by the Defensive Driving Program in presenting defensive driving classes. The curriculum includes a detailed written outline of the course or lesson plan, films or audio visual materials, and any written materials the school intends to use to supplement the presentation.
- p. Each school shall establish and follow detailed written operational and financial procedures. If the defensive driving school is a multipurpose agency, it shall establish separate records and procedures for the reporting of revenue receipts, disbursement of funds, and any other financial transactions for the defensive driving school portion of the agency.
- q. Each school(s) procedures and records shall conform to generally accepted accounting principles and the minimum accounting standards contained in this code section.

- r. Each school shall collect the court diversion fee, the fee established by the administrative director for the defensive driving school fund, the Judicial Collection Enhancement Fund fee, plus any fee charged by the school before an individual begins a defensive driving school class.
- s. A school shall not issue a completion certificate to any student who has not paid all required fees.
- t. Each school shall collect and remit all diversion fees to each court as required by A.R.S. (28-3396(C) and according to this code section, with all required reports and data concerning the student and traffic ticket for which the fees are collected. The school shall hold the diversion fees in trust for the courts until disbursed.
- u. Each school shall collect and remit all state fees and the required reports concerning the student and traffic ticket for which the fees were collected, or a (negative state fee report(if no state fees were collected. The school shall hold the state fees in trust for the supreme court until disbursed.
- v. Each school shall submit the school's schedule of future classes in the manner and within the time required by the program manager. The schedule shall include the date, start and end time, instructor name, and location of each class. The school shall submit the schedule as often as necessary to ensure the Defensive Driving Program has accurate and current information.
- w. Each school certified to provide an alternative delivery method (ADM) shall provide a list of sites where the program is made available and disclose the process by which the course is administered. The ADM school shall provide the schedule of on-duty instructors, on the schedule required by the program manager. The school shall provide the schedule in a Defensive Driving Program-specified electronic or other format, and update it as often as necessary to ensure it is accurate.
- x. Each school shall maintain the confidentiality of all defensive driving student records. Schools shall not disclose Defensive Driving Tracking System information to any third party. Schools may disclose information to individuals only upon presentation of reasonable evidence the person seeking the information is the same person who is the subject of the record. Schools shall refuse or refer all third party requests for student information to the Defensive Driving Program.
- y. A school shall not perform nor permit its employees or representatives to perform judicial functions or functions for court staff. School personnel shall not volunteer assistance to court staff in their official duties.

4. Eligibility, Registration and Attendance

- a. Each school shall ensure the violation for which a student attends a defensive driving class is an eligible moving violation as specified by A.R.S. (28-3392(A) and defined by this code section, is permitted by the court for diversion if an eligible misdemeanor, and that the violation did not result from a collision that caused the death or serious physical injury of any person as defined in this code section.
- b. Each school shall determine whether an individual is eligible to attend defensive driving school before the individual is allowed to attend a class for diversion of a traffic violation through a query of the Defensive Driving Tracking System. A school may also use the Defensive Driving Tracking System to investigate the eligibility of any other attendee or prospective attendee, for example, in instances where a person is court-ordered to attend a defensive driving class.
- c. Each school shall notify the Defensive Driving Program and the court of jurisdiction of any student who completes a class but was not eligible for diversion, and shall include in the notification the reasons the school failed to prevent the attendance. This requirement does not apply to students who are court-ordered pursuant to statute, when the court order is issued prior to the class attendance.
- d. Each school shall report general student and payment information and course completion data either directly to the Defensive Driving Tracking System on-line or on a batch basis. The program manager shall determine whether the school is to operate on a batch or on-line basis based on the needs of the court and the school.
- e. Each school shall require each student to show official identification prior to beginning a class. Acceptable forms of identification are limited to an official government-issued driver license or an official state or federal photo identification card.
- f. Each school shall physically verify the registration information collected against the driver license or identification card and the citation to ensure accuracy of required information
- g. Each school shall make a positive identification of each attending person through direct comparison of the person to the person's valid driver license or official state identification card. The program manager may require a school to retain a photo copy of each driver license.

- h. Each school shall collect and retain a copy of each attendee(s) citation upon registration to permit verification of data and eligibility and shall furnish the citation on request to the Defensive Driving Program.
 - i. If the school is conducting a defensive driving class by an approved alternative format where classroom attendance is not required, a school representative shall make a positive identification of the participant at the time of delivery of the course materials to the student. The procedures for administration of the course shall demonstrate the person registered for the course is the actual participant during the time the class is taken and completed.
 - j. Each school shall require students who are court-ordered to attend a defensive driving class to provide the court order requiring attendance at the time of class attendance. The school shall retain a copy of each court order.
 - k. Each school shall require individuals to read and sign an affidavit of eligibility prior to beginning a defensive driving class for dismissal of a traffic citation and shall provide an explanation to students of the provisions and implications of the affidavit of eligibility. A school shall not issue a completion certificate to any student who has not signed this affidavit. The Defensive Driving Program reserves the right to approve or provide the specific wording for use on each affidavit of eligibility.
 - l. Each school shall provide students who complete a defensive driving class with a completion certificate that includes the name of the student, date of the class, citation or docket number to be dismissed, court of jurisdiction, name of the defensive driving school and the school's authorized signature. The school shall complete all required information on each certificate prior to delivery to the student.
 - m. Schools shall not operate in a manner that would reflect adversely on the judiciary, the courts or other agencies involved in the administration of justice, including law enforcement agencies.
 - n. Schools shall not use materials or employ methods determined unsuitable by the Defensive Driving Program nor any methods or materials not specifically approved by the program manager.
5. Out-of-State Courses
- a. Schools shall coordinate the defensive driving attendance and completion of eligible individuals who receive an eligible Arizona violation and are authorized by a court to attend an out-of-state program. Coordination shall include:

- (1) Verification of the individual(s) eligibility prior to attendance;
- (2) Collection and retention of all student data and a notarized affidavit of eligibility;
- (3) Collection and disbursement of court diversion fees and state fees as required by this code section;
- (4) Reporting of required data to the Defensive Driving Tracking System for out-of-state students who complete a defensive driving course;
- (5) Notification to the jurisdictional court of the individual(s) completion and any other reports required by that court in connection with a student attendance; and
- (6) Providing out-of-state students with information regarding their responsibilities regarding Defensive Driving Program attendance requirements.

Students shall provide satisfactory evidence of course completion within the time allowed by the Arizona court, and shall comply with all applicable requirements and policies of the Defensive Driving Program.

The completion date for an out-of-state attendee is the date a valid completion certificate and all required fees are received by a certified defensive driving school, in cases where an out-of-state student is required to mail paperwork to an in-state certified school.

Schools shall require and retain reasonable evidence the person taking an out-of-state course is the same person named on the Arizona citation, through a positive check of the person(s) driver license at the time of class or the delivery of materials for an ADM, and a notarization by jurat of the required documents.

6. Accounting System.

Each school shall comply with the following requirements:

- a. Schools shall establish an accounting system that ensures accurate reporting of all transactions relative to the receipt and transmission of court diversion and state fees and provides sufficient documentation for audit or review purposes;
- b. Schools shall separate school monies from any monies owed to any courts. Schools shall maintain a separate checking account for court diversion and state fees which they shall use for the sole purpose of holding and disbursing court diversion and state fees;

- c. Schools shall enter all required completion information on the Defensive Driving Tracking System no later than three business days after the date of each class for each individual who completed a class;
- d. Schools shall enter a state fee record on the Defensive Driving Tracking System for any student who pays for a class but does not complete within that payment period. Schools shall enter state fee records for any uncompleted students no later than seven days after the end of the payment period in which the fees were collected, and the school shall disburse all state fees so collected to the supreme court by the same date;
- e. Schools shall not enter student completion records in advance, nor enter a student record for any student who has not actually completed an approved class;
- f. Schools shall retain all records related to a person(s attendance or otherwise required by this code section a minimum of three years. Each student record shall include the following information:
 - (1) Receipt number;
 - (2) Student(s complete name, address, date of birth, and license number;3)
 - (3) Citation information, including the number, charge number, court code, violation code and violation date;
 - (4) Receipt date;
 - (5) Amount received;
 - (6) Method of payment;
 - (7) Identification of person accepting payment;
 - (8) Date and location of class assignment;
 - (9) Date student completed class;
 - (10) Program code;
 - (11) Violation type;
 - (12) Location of class (in state/out of state);
 - (13) Copies of any applicable court order and other information significant to the record; and,
 - (14) Type of class, if not a standard classroom course.
- g. Schools shall establish a cash receipts procedure;
- h. Schools shall use pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to all students from whom a defensive driving fee is collected. Receipts shall provide the following information:
 - (1) Student(s name;

- (2) Receipt date;
 - (3) Amount received;
 - (4) Name of the person making the payment;
 - (5) Identification of person receiving the payment;
 - (6) Method of payment;
 - (7) Sequential receipt number; and
 - (8) Name of school.
- i. Schools shall deposit all court diversion and state fees collected into a separate checking account established for this purpose and hold the fees until the time they are disbursed;
- j. Schools shall update state fee records with completion information within three business days of the date the student successfully completes a defensive driving course;
- k. Schools shall maintain a cumulative record of all individuals who have prepaid for a defensive driving course but have not attended. Schools shall handle all prepaid fees in accordance with this code section and hold them in trust for the courts until disbursement on the prescribed schedule or until an approved refund is issued to the student pursuant to this code section;
- l. Schools shall establish procedures that result in timely disbursement of all court diversion and state fees, according to the following requirements:
 - (1) Schools shall disburse all fees received between the 1st through the 15th of the month to the courts by the 22nd day of that month;
 - (2) Schools shall disburse all fees received from the 16th through the 31st of the month to the courts by the 7th day of the following month; or
 - (3) Schools shall disburse fees more often if required by the terms of a court contract.
- m. Schools shall replace any checks disbursed to a court which are returned by the bank for insufficient funds within three business days and shall add all returned check charges incurred by the payee to the replacement check. The Defensive Driving Program may take disciplinary action against a school that issues an insufficient funds check;
- n. Schools shall prepare a monthly bank reconciliation for the court diversion and state fee checking account;
- o. Schools shall reconcile receipts to deposits. The aggregate receipts for the month shall match the aggregate deposits;

- p. Schools shall reconcile the month-end court diversion and state fee checking account balance to the unpaid amounts owed to the courts. Schools shall account for the balance in the account at all times;
 - q. Schools shall reconcile and balance all collected fees on a daily basis;
 - r. Schools shall provide remittance reports with each payment made to a court which shall contain the following information:
 - (1) Complete name;
 - (2) Birth date;
 - (3) Driver license number;
 - (4) Citation number;
 - (5) Court; and
 - (6) Date of course completion, if applicable.
 - s. Schools shall format remittance reports for the courts in the manner agreed upon between the court and the school;
 - t. Schools shall submit remittance reports for the Defensive Driving Program in the following format:
 - (1) List of individuals who completed the defensive driving course and the court diversion or state fee remitted for that period;
 - (2) List of individuals who registered for a course but did not complete it and the court diversion or state fee remitted for that period;
 - (3) List of individuals who completed the defensive driving course and the court diversion and state fee paid in a prior period; or
 - (4) If no payment is due to the supreme court, the school shall prepare and submit a negative state fee report.
 - u. Schools shall prepare and send a court payment report to the Defensive Driving Program with the state fees and remittance report. This report shall include:
 - (1) Name of each court to which a payment is made;
 - (2) Payment date;
 - (3) Amount of the payment; and
 - (4) Check number; or
 - (5) Schools may submit copies of checks or receipts instead of the court payment report.
 - v. Schools shall transmit reports to the Defensive Driving Program electronically, on a diskette, or manually, using a consistent method. The school shall submit requested changes to reporting method or format to the program manager for prior approval.
7. State Fees

- a. Schools shall provide detailed records on students for whom state fees are due. It is not acceptable for a school to provide only aggregate numbers.
- b. Schools shall ensure a state fee is remitted for each student whose name appears on the remittance report.

8. Remittance Reports

- a. Schools shall deliver electronic remittance reports (if used or requested) to the Defensive Driving Program on or before the payment due date. If a diskette is used, schools shall mail the diskette and a hard copy of the data with the remittance report to the Defensive Driving Program. Schools shall retain electronic or diskette reports in an accessible format until the school receives confirmation from the Defensive Driving Program the information is usable, complete, accurate, and is reconciled.
- b. Schools shall remit manually prepared remittance reports (if used or requested) in accordance with this code section and deliver the reports to the Defensive Driving Program in the required format, on or before the payment due date.

9. Refunds.

- a. Once a person begins a class, the state fee is non-refundable except as specifically provided by this subsection. Schools may refund other registration fees in accordance with their own guidelines, or at the direction of a court.
- b. Refunds by the school of court diversion and state fees are permitted when all fees paid (school fee, diversion fee and state fee) are refunded, and
 - (1) A student pre-pays for a class, does not begin the class and does not contact the school to reschedule for a future class. The school shall refund both the court diversion fee and the state fee 60 days after the scheduled class date or upon notification from the student that the student will not attend a class, whichever is first, or
 - (2) An officer fails to file a citation with a court and the cited person attends a diversion course for that citation. Upon notification by the jurisdictional court, the school shall notify the program manager a refund is requested. Upon written approval by the program manager, the school shall refund the state fee to the student.
- c. The program manager may authorize refund of a state fee, when a citation is dismissed by a jurisdictional court on its own motion, for technical problems that are not correctable under civil traffic rules (rules of court).

- d. Refund of student fees shall result in restoration of the student(s) eligibility for the program.
 - e. Refunds of state fees to schools or students are not permitted for ineligible violations or ineligible students who attend a defensive driving class, whether by fault of the student or school.
 - f. At its discretion, a court may direct refund of a court diversion fee to a student, or may direct the school to forward the fee to the court for a bond or other amount due the court, up to the amount of the default for the citation.
 - g. Schools shall maintain complete and accurate records of all refunds. The school shall attach supporting documentation to each refund disbursement.
 - h. In cases where refunds cannot be authorized under this code section, the program manager may authorize restoration of eligibility for a student who attends a defensive driving class but cannot have the violation dismissed because the violation was ineligible for diversion. An ineligible violation is any violation not included by A.R.S. (28-3392(A)).
10. Outstanding Disbursements
- a. Schools shall investigate on a monthly basis all disbursement checks outstanding for more than six months.
 - (1) If the payee is a court, the school shall reissue the check if necessary and cancel the missing check.
 - (2) If the payee is a student to whom a refund is owed, the school shall send a letter to the payee(s) last known address advising the payee the check has not been cashed.
 - (3) If the student responds the check is lost, the school shall reissue the check and cancel the outstanding check.
 - (4) If the student does not respond within 30 days or cannot be located, the school shall reissue the check to the supreme court. The supreme court shall process the unclaimed refund according to state law.
 - b. Batch schools shall correct errors to state fee and completion records or submit a request for correction to the Defensive Driving Program within five business days of receiving notice from the system of the error or five business days after discovery.
 - c. On-line schools shall correct or request correction of state fee or completion records within five days of system notice or discovery.
11. Defensive Driving Tracking System

The supreme court shall maintain a database, (the Defensive Driving Tracking System,(as required by A.R.S. (28-3395(B)(3) to keep records of all persons who have attended a defensive driving school. The Defensive Driving Tracking System includes the student database and associated electronic mail, instructor tracking and class schedule directory features. The program manager may establish system specifications for each school. Additionally, each school shall comply with the following requirements:

- a. Schools shall provide one or more persons to attend system operation training prior to certification and as often thereafter as the program manager requires for system updates and as often as necessary to maintain the institutional knowledge required to operate the Defensive Driving Tracking System correctly and accurately;
- b. Schools shall provide and maintain the proper hardware and software to interface with the system, and update these as often as required by the Defensive Driving Program to maintain efficient system function;
- c. Schools shall ensure the required data for state fees and class completion is entered and errors corrected, or an error correction requested within the time frames specified in this code section;
- d. Schools shall maintain class schedule directories as required by the program manager on the same physical computer system that contains the Defensive Driving Tracking System, unless an exception is authorized by the program manager;
- e. Schools shall comply with all the requirements of this code section on behalf of students who attend an out-of-state defensive driving class, except that the completion date of an out-of-state student is the date the completion certificate and required fees and documentation are received by the coordinating Arizona defensive driving school;
- f. Schools shall assume responsibility for all costs of equipment, telephone lines, contractor fees incurred to meet these requirements, and any upgrades required to maintain the system in a reasonable condition as determined by the Defensive Driving Program; and
- g. Schools shall maintain the ability for connection to the Defensive Driving Tracking System continuously. The Defensive Driving Program may suspend the certificate of a school upon failure to maintain the ability to connect to the Defensive Driving Tracking System for more than three consecutive business days, and may revoke certification if connection and serviceability are not restored within 30 days.

12. Educational Requirements

- a. Schools shall prepare and submit an accurate and detailed written course description. The Defensive Driving Program shall review and approve or reject the submitted written course description before use. The course description shall detail an Arizona-specific educational and behavioral modification lesson plan that includes:
 - (1) The concept of collision prevention, including a discussion of the magnitude of traffic collision problems;
 - (2) Practical defensive driving techniques;
 - (3) Use and importance of safety systems including seat belts, child restraints, (Anti-lock Braking Systems, (and supplemental restraint systems;
 - (4) The role of alcohol and drug use in increasing risks and the probability of collisions;
 - (5) The risks involved in irresponsible driver behaviors including inattention, speeding, reckless driving, failing to observe school zones and crossings, and running red lights and stop signs;
 - (6) A review of the major traffic laws of Arizona and local ordinances; and
 - (7) (Optional) coverage of other local traffic issues and driving conditions.
- b. Schools shall conduct defensive driving classes to ensure each student receives a minimum of 330 minutes of instructional time. If a school presents a class that is less than 330 minutes of instructional time for every student attending, that class does not meet standards. Failure to meet time requirements is cause for disciplinary action by the Defensive Driving Program.
- c. Schools and instructors shall present only that material contained in the school(s) certified curriculum and pre-approved by the Defensive Driving Program.
- d. Schools or instructors shall not use a defensive driving class as a forum for any purpose except the presentation of the approved lesson plan.
- e. Schools shall schedule an adequate meal break if the entire class is given in one day, or one evening, unless students are notified at least 24 hours prior to class no meal break will be allowed and that students are permitted to consume food and beverages during the class instruction time. This requirement is subject to modification for compliance with the Americans with Disabilities Act (ADA), and is not applicable to ADM formats where the student controls the timing of completion of the material.
- f. The instructor shall remain in the classroom with the students during the full 330 minutes of instruction time. This provision does not apply to situations

- where the video program for special needs is used, or an ADM format, but in these cases, schools shall ensure a supreme court-certified instructor is directly available at all times to answer student questions.
- g. Schools shall limit attendance to only that number commensurate with student comfort in the classroom including adequate classroom space and seating capacity for all students registered for the class, adequate heating and cooling, and immediate access to drinking water and restroom facilities. In no case shall the number of students exceed 60 attendees per class, unless prior written authorization is obtained from the program manager.

13. Classroom and Conduct Requirements

- a. Schools shall ensure all classrooms meet all local, county and state health, safety and building requirements and ordinances.
- b. Schools shall provide classrooms that have adequate audio-visual equipment which allows all students to see and hear the presentation clearly, if audio - visual presentations are a part of the approved lesson plan. Classroom courses are limited to a maximum of 30 percent audio-visual material.
- c. Schools shall maintain appropriate decorum in the classroom for learning.
- d. Schools shall require students to be punctual and attentive.
- e. Schools shall prohibit students from sleeping or engaging in activities that are not a part of the school(s) approved course during the 330 minutes of classroom instruction.
- f. Schools shall prevent or control disruptions.
- g. Schools shall expel students from the class who do not comply with the classroom standards and the reasonable instructions of the school(s) staff. When a school expels a student from a class, the school shall make and retain a report explaining the circumstances and reasons for expulsion.
- h. Instructors shall maintain a professional demeanor while presenting defensive driving classes in accordance with the goal of the Defensive Driving Program to educate drivers and enhance traffic safety.
- i. Schools shall ask students to complete an evaluation form and shall collect and forward the completed evaluations to the program manager within five days on request. The program manager may specify the format and content of the evaluation form.
- j. Schools utilizing ADM formats shall require and obtain class evaluations from all students when requested to do so, and shall forward evaluations to

the program manager within five days. The program manager may specify the format and content of the evaluation form.

14. Curriculum

- a. Schools shall submit proposed changes to any element of the school(s) currently approved classroom presentation or materials, or any additions to the school(s) program that constitute a fundamental change in class format or delivery, to the Defensive Driving Program for approval prior to presentation to students.
- b. The program manager may require a school to make changes to curricula or other presentation materials at any time, when in the opinion of the program manager the changes are necessary to maintain the quality of the program.
- c. Schools shall not combine a defensive driving course for diversion of individuals who are cited for a civil traffic moving violation with a remedial course for individuals who are attending to avoid or mitigate a drivers license suspension. The program manager may waive this prohibition in limited market areas where it would have the effect of prohibiting use of a defensive driving course for diversion purposes as provided by A.R.S. ((28-3391 to 3399. A school may apply in writing to the program manager for written authorization to provide combined classes in specific locations. The program manager may approve the request based on the following criteria:
- d. Class sizes are frequently less than twenty students, indicating a limited number of students in the area; and
- e. No other defensive driving school is conducting non-combined defensive driving classes in the area.

15. Americans with Disabilities Act

- a. Schools shall comply with the Americans with Disabilities Act (ADA).
- b. Schools may use the video program for special needs and the accompanying workbook to accommodate a person qualifying under the ADA, subject to the following provisions:
 - (1) Schools shall present the video program for special needs under the direct and immediate supervision of school staff, preferably within the context of a scheduled regular defensive driving class;

- (2) Schools shall ensure a certified instructor is available during class time to answer any student questions;
 - (3) Schools shall not release the video program for special needs to the custody of any person or organization not affiliated with the Defensive Driving Program or a certified school; and
 - (4) A school or instructor shall use the video for special needs only for student attendances under the ADA.
 - c. This subsection does not preclude a school from developing its own program to facilitate compliance with the Americans with Disabilities Act, subject to the certification requirements of this code section. The program manager may authorize other ADM's as a standard or case by case accommodation for compliance with the Americans with Disabilities Act if these methods comply with all applicable requirements of this code section.
 - d. The student or class qualifying under the ADA shall meet all applicable requirements of this code section.
16. Alternative Delivery Methods
- a. Upon request by a school or applicant, the Defensive Driving Program may approve an ADM format provided all requirements of this code section are met.
 - b. The school shall ensure a certified instructor is directly available to answer student questions and schools shall have enough certified instructors, and the manner of their availability shall be adequate to ensure coverage at all times.
17. Assumed Business Name.
- Reference Code Section 7-201: General Requirements.
18. Instructors.
- a. Level one instructors may not act as training instructors for the certification of other instructors, except when specifically authorized by the program manager in the case of an applicant or newly certified school where the training instructor has received level one certification as part of the school application process.
 - b. The administrative director may refuse to certify, or suspend, revoke, or place on probation, the certificate of any instructor who fails on two or more successive evaluations, completed more than 30 days apart, to demonstrate material accuracy or otherwise fails to meet program requirements or standards.

- c. The administrative director may set special terms for certification of instructors with a record of deficiencies on monitoring reports, including a requirement for additional training.
 - d. The program manager may divulge information to a defensive driving school about an instructor obtained through certification applications, complaint investigations or routine monitoring, when the information has pertinence to a certification application filed on behalf of the instructor by a defensive driving school or if otherwise in the interest of the Defensive Driving Program.
 - e. Instructors shall comply with the requirements and provisions of Code Section 7-201: General Requirements relating to transacting business under assumed names.
 - f. Instructors shall notify the program manager of any change in mailing address within 30 days.
 - g. Instructors shall notify the program manager of any failure to meet the instructor eligibility requirements of this code section within five days.
 - h. Instructors teaching for more than one defensive driving school are certified to teach at all schools and need only submit one application.
19. Courts.
- a. A municipal, justice or juvenile court may offer eligible persons the option to attend any certified defensive driving school or a court may choose to contract with one or more certified primary providers for defensive driving school services. Courts that do not contract with a primary provider shall offer any eligible person the option to attend any certified school.
 - b. A court shall not permit the use of any defensive driving school not certified by the Defensive Driving Program for dismissal or mitigation of a violation except that a court may permit eligible persons who are not residing in Arizona to attend a similar program in their home state. Defensive Driving Program certified schools shall coordinate all out-of-state attendances according to the provisions of this code section on behalf of Arizona courts.
 - c. A court shall accept notification of a student(s) completion of a defensive driving class only from a certified defensive driving school.
 - d. The presiding judge of the superior court for the county may require any or all justice courts in the county to select a primary provider or providers through a joint procurement.
 - e. The presiding justice of the peace of the county shall have the authority for selection of one or more primary providers for justice courts in that county, subject to approval by the presiding judge of the superior court for the

- county. If there is no presiding justice of the peace for the county to effectuate the contract, the presiding judge of the county shall have direct approval authority for the contract.
- f. The presiding judge of the juvenile court shall have the authority for selection of one or more primary providers in each county, subject to approval of the presiding judge of the superior court of the county. If juvenile cases are assigned to a justice or municipal court, then the provisions of subsections (e) or (g) apply.
 - g. The presiding magistrate of a municipal court shall have the authority for selection of one or more primary providers for that court, subject to approval of the presiding judge of the superior court for the county.
 - h. The selection of a primary provider or providers shall adhere to applicable procurement codes and regulations including a competitive bid process.
 - i. If a court or its administrative body selects one or more primary providers, the court shall have a written contract with each provider.
 - j. The administrative director may require each contract include specific provisions.
 - k. A court may choose to operate its own defensive driving school program for the purpose of civil traffic moving violation diversion.
 - (1) If a court chooses to operate its own defensive driving school program, it shall adhere to all applicable requirements and procedures in this code section.
 - (2) The court shall set a school fee that represents only the cost to operate the school.
 - l. No court officer or employee, voluntary or paid, may own, operate, be employed by, or receive compensation from a defensive driving school except in cases where the court operates a certified defensive driving school.
 - m. No court officer or employee may accept compensation or incentives, either directly or indirectly, to enroll students in a school or for selection of a specific school as a primary provider.
 - n. A court shall promptly report any violations of this code section to the Defensive Driving Program.
 - o. The presiding judge of each court may establish a diversion fee for each individual attending a defensive driving school, in accordance with A.R.S. (28-3396).
 - (1) The presiding judge may waive collection of the diversion fee.
 - (2) The presiding judge may change the diversion fee up to two times each year, effective either on January 1 or July 1, or both dates. A court shall

notify the program manager 30 days prior to the effective date of the change, using the Defensive Driving Program form designated for this purpose.

- (3) If a court sets a diversion fee, it shall set a single diversion fee amount for all instances under which all defendants may attend a defensive driving school as a court diversion program.
 - (4) A court shall not assess both a fine and a diversion fee.
- p. If a court orders a person to attend defensive driving school, the court shall provide the person with a written court order which specifies the violation date, violation code, and any special conditions the person must fulfill.
 - (1) The court shall note on the court order if the person is fined for the violation. Where no fine is noted, the defensive driving school shall collect the court(s) diversion fee from the person attending the course.
 - (2) A court shall not order an ineligible student to attend a defensive driving class for dismissal of a violation.
- q. A person who completes a defensive driving class for dismissal of a charge is ineligible for diversion of a charge on any traffic citation dated within 24 months after the date of the first charge.
- r. A court may require additional or different insurance coverages as it or its administrative body or procurement authority finds appropriate.
- s. Courts shall not permit defensive driving school personnel to perform judicial functions or functions for court staff, and shall not allow school personnel direct access to court records. Courts shall not allow school personnel other than read-only access to electronic court records. School personnel shall not have access to areas within the court not normally accessible to the public.

E. Initial Certification.

1. Applicant Schools.

- a. Any person or business entity meeting the qualification requirements of this code section shall submit the following requirements to initiate the certification process.
 - (1) The applicant shall file a completed and notarized application and all required supporting documentation with the program manager using

forms supplied by the Defensive Driving Program. The administrative director may revise requirements, certification forms and fees at any time.

- (2) The applicant shall remit the required certification fee with the application; certification fees are non-refundable.
 - b. Defensive Driving Program acceptance of an application package does not constitute a contract between the supreme court or its divisions and the applicant.
 - c. An organization, its principals, or any individual applying for certification that previously has been denied certification or had certification suspended or revoked shall provide evidence that shows the reason for the previous denial or revocation is remedied.
 - d. The school certification process involves three steps. Each applicant shall complete each step before proceeding to the next step.
 - e. The program manager shall direct reviews of each of the steps by employees of, or contractors to, the Defensive Driving Program.
 - f. The program manager shall evaluate the applicant at the completion of each step, and make a decision to forward the application to the next step or reject the application. The program manager shall notify applicants in writing if rejected and the reasons for rejection.
 - g. When a school successfully completes a step, the program manager shall plan and schedule the next step, and notify the applicant.
 - h. Applicants completing all three required steps successfully are granted certification through the end of the current calendar year, in accordance with the requirements of this code section.
2. Step One (Certification Process).

The purpose of Step One is to ensure compliance with the administrative requirements for a defensive driving school pursuant to this code section and applicable statutes, and provide for an initial review of the school(s) curriculum and related documentation.

- a. Each applicant shall accurately execute and submit a complete application package including:
 - (1) The notarized application form provided by the Defensive Driving Program;
 - (2) The Indemnification Statement and the Conflict of Interest Statement, signed by an officer with appropriate authority;
 - (3) Evidence of insurance;

- (4) All other documentation and supplemental information required, including a detailed written description of the course curriculum in compliance with the course requirements set forth in subsection D(12).
 - (5) Detailed written operational and financial procedures that show understanding of and compliance with all program requirements; and
 - (6) At least one instructor certification application. A school shall not be certified, operate, nor retain certification, unless it has at least one certified instructor employed or contracted.
- b. The program manager shall reject incomplete or inaccurate materials.
 - c. On review of the application package, the program manager shall accept or reject the applicant based on completeness, accuracy, and demonstrated understanding of the Defensive Driving Program based on the materials submitted. The program manager shall require revisions as necessary.
 - d. The program manager may require applicants to answer questions in writing to determine their understanding of Defensive Driving Program requirements and procedures.
3. Step Two (Certification Process).

The purpose of Step Two is to ensure compliance with all requirements for course and classroom as required by the code section, and particularly subsections D(12), D(13), D(14) and D(16).

- a. The program manager shall set a time and location for a defensive driving course demonstration by the applicant. The applicant shall present the course in complete form with all elements and intended delivery formats as proposed by the applicant in the curriculum documentation. The program manager shall set ADM course demonstration requirements and processes in advance, in cases where the normal course demonstration process cannot reasonably be applied.
- b. The applicant(s) chief instructor or equivalent shall present the course demonstration.
- c. The school and presenting instructor shall demonstrate mastery and understanding of the course material. In the case of alternative formats, the written script and final course product shall match exactly, shall be wholly accurate, created specifically for the state of Arizona, with coverage of traffic law specific to Arizona.
- d. Schools shall use only original materials, or those in the public domain. If the materials are not original, the school shall possess written authorization for their use.

- e. The program manager shall prepare a written evaluation of the course demonstration including a description of each point of compliance with the standards for certification and any discrepancies or irregularities, and shall provide a copy of the evaluation to the applicant.
 - f. If the course demonstration does not meet requirements, the program manager may schedule a second course demonstration. Applicant schools shall conduct second course demonstrations only at the State Courts Building, 1501 W. Washington, Phoenix, Arizona.
 - g. The program manager shall deny certification to schools failing to present a satisfactory second course demonstration.
4. Step Three (Certification Process).
- The purpose of step three is to ensure the applicant(s) ability to use the Defensive Driving Program Tracking System and comply with the requirements of this code section for using the Defensive Driving Tracking System.
- a. The applicant shall designate at least one individual for training on the interface requirements and operation of the Defensive Driving Tracking System.
 - b. The Defensive Driving Program shall conduct the training at a location chosen by the program manager.
 - c. Following the training, Defensive Driving Program staff will conduct a test or tests of the applicant(s) hardware and software to verify the applicant has the necessary equipment and expertise to operate in the Defensive Driving Tracking System. The applicant school shall demonstrate their hardware and software function correctly in connection with the Defensive Driving Tracking System, and that they possess the knowledge and training needed to conduct operations correctly.

5. Instructor Qualifications.

Instructors shall obtain certification from the Defensive Driving Program prior to conducting classes or otherwise performing the duties of an instructor under this code section, except that an instructor in training may join with a certified instructor in the presentation of classes for a maximum of three months for training purposes. For certification, an applicant shall meet all the requirements of this code section, including:

- a. An instructor shall have attained a minimum age of at least eighteen years old;

- b. An instructor shall possess a high school diploma or a general equivalency diploma (GED);
 - c. An instructor shall hold a valid driver's license with no suspensions or revocations within the last five years;
 - d. An instructor shall have no felony convictions;
 - e. An instructor shall not have more than two civil traffic moving violations on their motor vehicle operator's record within the 39 months preceding application;
 - f. An instructor shall have no misdemeanor convictions involving moral turpitude or vehicle operations within the five years preceding certification;
 - g. An instructor shall disclose and describe all violations and convictions as described in this subsection. The program manager may require fingerprinting and a criminal history background check of instructors or applicants if permitted by statute; and
 - h. Certified instructors applying for renewal of their certification are subject to the requirements for initial certification, except as otherwise noted in this code section.
6. Certification Process.
- a. An instructor seeking certification shall complete and sign and have notarized the instructor application form and attach an original certified motor vehicle operator record. The program manager may waive or modify the motor vehicle operator record requirement for conversion or recertification applicants. Only official motor vehicle operator records issued by an official state agency are acceptable; in Arizona, only those issued by the Motor Vehicle Division of the Arizona Department of Transportation are acceptable.
 - b. The program manager, without waiving basic requirements for instructors, may grant an exception to the instructor certification requirements of this subsection on written request by a school. The program manager may grant an exception if:
 - (1) A new school, when applying for certification, requests a level one instructor permit for the instructor who teaches a successful demonstration class for school certification;
 - (2) A school submits a written request for extension of an instructor's certification expiration date because work, family, military responsibilities or other extenuating circumstances prevented the instructor from attending the required annual update training or

teaching the required number of classes. The program manager shall not grant more than one consecutive extension, and each extension shall not exceed one year;

- (3) A certified school which teaches a limited number of classes requests reduction of the minimum class requirement from six to four per instructor per year so the school can maintain a sufficient number of certified instructors to cover their scheduled classes should an emergency occur; or
 - (4) The program manager may, upon written request by the school, provisionally certify a school administrator or other person with level four experience as a certified instructor to teach Defensive Driving Program classes on an emergency basis only, by waiving further requirements for minimum classes taught and annual update training as required by this subsection.
- c. Instructor certification levels (four) are established in order to track instructor training and experience. A level one instructor is a newly certified instructor who has complied with initial certification requirements. Levels two, three and four are obtained by completing the successive educational and experience requirements set by the Defensive Driving Program.
 - d. At the satisfactory completion of initial training, and after each succeeding training and experience requirement is completed, the instructor(s) shall submit an application for the instructor(s) certification or conversion with all required documentation, as specified by this subsection.
 - e. The Defensive Driving Program reserves the right to develop an examination and require instructor applicants to pass the examination on initial certification application, and for each step in the conversion and renewal process.
 - f. The instructor may apply for conversion of a permit to a higher level at any time during the period in which the instructor permit is valid by submitting an instructor certification application noting the conversion requested and providing acceptable documentation of compliance with the requirements for certification conversion to that level pursuant to this code section. To convert to the next higher instructor level, an instructor shall:
 - (1) Complete the application form provided by the program manager and attach an original and current 39 month motor vehicle operator(s) record if required by the program manager;
 - (2) Have taught a minimum of six classes for a certified driving school during the preceding twelve months. The employing school shall

maintain records of each instructor(s) classes taught and provide verification on request; and

- (3) Attend an in-service update training, or other training session provided by the Defensive Driving Program, or for level four instructors, a minimum of six hours of course work approved by the program manager and the employing or contracting school. The Defensive Driving Program provides training for this purpose [see subsection G(3)(d) and G (3)(e)]. The applicant shall provide documentation of the course completed on the form provided by the program manager and submit the form with the application.
- g. The program manager, upon receipt and approval of a completed application and supporting documentation demonstrating fulfillment of all requirements, shall issue the applicant a level one instructor permit which authorizes the instructor to begin teaching defensive driving courses as court diversion programs, or for a conversion application, the program manager shall issue certification at the next higher level for which the instructor is qualified.
- h. The school shall deliver instructor renewal applications at least 30 days prior to expiration. If a new application is not received by the program manager by the expiration date of the last instructor permit, the instructor(s) authorization to teach defensive driving classes expires and a new application shall be filed. The program manager may waive a repeat of training requirements in the event an instructor(s) certificate has expired without renewal, and renew the instructor(s) certification at the last attained level, unless more than twelve months has passed since lapse of certification.
- i. If an instructor(s) certification lapses or is refused due to failure to meet training requirements, the instructor is not eligible to apply for subsequent certification for 90 days.
- j. Instructor certifications are issued for twelve month periods based on calendar year (January through December).
- k. An instructor may exercise the privileges of certification only under the auspices of a certified defensive driving school.
- l. Level One.
 - (1) An applicant for level one certification shall observe and attend a certified defensive driving class as part of the instructor training program. The school shall certify the completion of this requirement on the form provided by the program manager for this purpose. The

school shall retain the form with the applicant(s) records, and shall provide proof on request of the program manager.

- (2) An applicant for level one certification shall complete a pre-service instructor seminar or other formal training program as determined by the defensive driving school. This seminar or training may consist of any defensive driving instructor course approved by the Defensive Driving Program. The applicant or school shall provide documentation of the course completed on the form provided by the Defensive Driving Program and submit the form with the applicant(s) application if requested to do so by the program manager.
 - (3) An applicant for level one certification shall successfully conduct at least one defensive driving class under the supervision of a defensive driving instructor who holds at least level two instructor certification. The supervising instructor shall complete an evaluation of the student instructor pursuant to this code section. The class shall comply with all requirements for Defensive Driving Program classes in this code section and the compliance shall be stated on the evaluation.
 - (4) An applicant for level one certification shall have passed an examination, if required, prior to certification.
- m. Level Two. To convert to level two, an instructor shall complete at least six hours of approved course work including the topics teaching adult students and the traffic laws of Arizona, shall have taught a minimum of six Defensive Driving Program classes as a certified instructor, pass any required examination, and have a record of compliance with all requirements of this code section. The applicant shall provide documentation of the courses completed and classes taught on the forms provided by the Defensive Driving Program for this purpose and submit the forms with the application.
 - n. Level Three. To convert to level three, an instructor shall complete at least twelve hours of approved course work, shall have taught a minimum of twelve Defensive Driving Program classes as a certified instructor, pass any required examination, and have a record of compliance with all requirements of this code section. The applicant shall provide documentation of the courses completed and classes taught on the forms provided by the Defensive Driving Program for this purpose and submit the forms with the application.
 - o. Level Four. To convert to level four, an instructor shall complete at least eighteen hours of approved course work, shall have taught a minimum of eighteen Defensive Driving Program classes as a certified instructor, pass

any required examination, and have a record of compliance with all requirements of this code section. The applicant shall provide documentation of the courses completed and classes taught on the forms provided by the Defensive Driving Program for this purpose and submit the forms with the application.

F. Denial of Certification.

1. Reasons for Denial.

In addition to any reasons specified in Code Section 7-201: General Requirements, the administrative director may refuse to certify any applicant if the applicant:

- a. Has not fully complied with any requirement contained in this code section or in Code Section 7-201: General Requirements;
- b. Conducts business under a trade name which implies a course content other than the teaching of defensive driving;
- c. Offers a premium, prize, food, lifestyle, entertainment or other inducement for selecting the school, other than the legal diversion or mitigation of a traffic citation; or
- d. Fails to resolve a conflict of interest, as described in this subsection:
 - (1) Certification as, or operation of, a defensive driving school by a public agency or an employee of a public agency, which has within the regular scope of duties the power to cite individuals for minor moving violations, to influence the resolution of citations for minor traffic violations, or otherwise control, advise, solicit, or order the attendance, or potential attendance of individuals in a defensive driving school. This limitation on certification or operation of a defensive driving school by public agencies or employees of public agencies does not preclude law enforcement officers from acting solely as employed or contracted instructors for defensive driving schools;
 - (2) Certification as, or operation of, a defensive driving school by a public agency or an employee of a public agency which or who is in a position to derive a profit or fund their own activities from the use of its facilities or employees in the presentation of a defensive driving course;
 - (3) Employment by a certified defensive driving school, either for pay or as a volunteer, of any employee of a public agency who has within the regular scope of their duties the power or ability to control, advise, solicit, or order the attendance of individuals in a defensive driving

school, or who is in a position to derive a profit or fund the public agency's activities from the use of the public agency's facilities and or employees to further the presentation of a defensive driving school's course;

- (4) Compensation of, or offering incentives to, a court employee, either directly or indirectly, to enroll students in a school or for selection of a specific school as a primary provider, except where the court operates a defensive driving school in compliance with this code section;
 - (5) Employment as a volunteer or paid employee, or compensation of any court officer or employee, to operate, instruct or provide any service to a defensive driving school, except in cases where the court operates the defensive driving school; or
 - (6) Any other apparent or actual conflict of interest as the administrative director defines.
- e. It is not a conflict of interest for a court to operate a defensive driving school program provided the court operating the school adheres to all applicable requirements of this code and sets a school fee, pursuant to A.R.S. (28-3397, that represents only the actual cost to operate the school. A court may not derive a profit from the school fee. Defensive driving schools operated by courts shall accept eligible defendants from other jurisdictions as provided in A.R.S. (28-3393(A)(2) and collect all state fees and court diversion fees and disburse them in accordance with procedures established by this code section.
2. Notification of Certification Denial.
Reference ACJA (7-201: General Requirements.
 3. Eligibility for Application after Denial.
Except as provided by Code Section (E)(6)(i), a certificate holder or applicant that is denied or revoked a certification under this code is not eligible for re-application for twelve months from the date of denial or revocation.

G. Renewal of Certification.

Renewal of certification is subject to ACJA (7-201: General Requirements and the following additional requirements and exceptions.

1. Expiration Date.

All certifications subject to the requirements of this code section expire after 11:59 p.m. on the last day of December in each calendar year, unless otherwise specified by the Defensive Driving Program.

2. Schools.

Each certified school seeking renewal of certification shall make a request in writing on the renewal application form provided by the Defensive Driving Program, supply supplemental information as required, and pay the specified renewal fee.

- a. The program manager shall calculate the renewal fee based on the total number of students completing a course with that school during the most recently completed state fiscal year, according to the schedule set by the administrative director.
- b. Each school shall deliver notarized renewal applications and fees to the Defensive Driving Program no later than November 30th of each year.

3. Instructors.

- a. Certified instructors shall apply for renewal by submitting a notarized application provided by the program manager and if requested, attach an original and current 39 month motor vehicle record that includes the preceding twelve months. The program manager may waive the application requirement for continuing instructors if training and currency are current according to Defensive Driving Tracking System records, and if compliance with program requirements can be assured by a notarized affidavit of compliance.
- b. Instructors seeking renewal shall have taught a minimum of six classes for a certified defensive driving school during the preceding twelve months. The employing school shall maintain records of classes taught for each employed or contracted instructor and shall provide them on request.
- c. Instructors seeking renewal shall complete at least six hours of continuing education training each year in accordance with this code section, unless an extension is granted per subsection E(6)(b)(2).
- d. Level four instructors shall attend an in-service update training or re-certification training approved by the Defensive Driving Program and the certified defensive driving school that employs the instructor. The instructor may obtain this training outside of supreme court training programs, except as required by subsection G(3)(e) unless waived. The school shall provide documentation of the course completed on the forms provided by the

Defensive Driving Program for this purpose and submit the form with the instructor(s) application.

- e. Once each three year period, a level four instructor shall attend an in-service update training program that is conducted by the Defensive Driving Program.

4. Denial of Renewal.

All circumstances that may result in denial, suspension, or revocation of certification in subsection F are also cause for denial of renewal of any certificate; in addition, reference ACJA (7-201: General Requirements).

H. Complaint, Investigation & Disciplinary Action.

1. General Procedures.

Reference ACJA (7-201: General Requirements).

2. Sanctions.

In addition to the sanctions specified by ACJA (7-201: General Requirements), the administrative director may do either of the following or both:

- a. Cause forfeit of any surety or cash bond; and
- b. Place a certificate holder on probation because of failure to meet the requirements of this code section or of ACJA (7-201: General Requirements). Probation lasts no longer than twelve months, after which the administrative director may allow the holder of a valid certificate to continue to exercise the privileges of the certificate without condition, decertify the school or instructor if corrective action has not brought the certificate holder into compliance with the requirements of this code section, or renew the certificate upon its expiration under continued probationary conditions.

PART III

DEFENSIVE DRIVING PROGRAM STANDARDS AND POLICIES

DEFENSIVE DRIVING PROGRAM
STANDARDS AND POLICIES
Alternative Delivery Method (ADM)

1. General

All standards or criteria for defensive driving schools and instructors, as specified in the adopted Arizona Code of Judicial Administration, Section 7-205: Defensive Driving Program, must be met by all schools, including schools proposing to present classes via an alternative delivery method (ADM). Each proposal will be reviewed by Defensive Driving Program staff and accepted or rejected based on whether it meets the established standards. These policies address the specific requirements for alternative delivery formats that differ from classroom delivery format and includes suggestions on measures for compliance. This document must be read in conjunction with Code Section 7-205.

2. Alternative Proposals

The Defensive Driving Program will consider other proposals submitted by schools; the suggestions contained here are not intended to limit innovative methods of providing service other than as required by the existing standards contained in Code Section 7-205.

3. Content Knowledge Testing

One purpose of a defensive driving class is to provide a sanction and deterrent to continued offenses by the program participant. By its nature, a home-delivered alternative delivery course format is a more convenient process for the participant and manifests an inherent reduction in sanction and deterrent effect. To restore an equitable standard of sanction and deterrent to that of classroom attendance, participants in alternative delivery formats shall be required to complete and pass content knowledge testing, as further specified in these policies.

4. Temporary Waiver of Specific Requirements

The Defensive Driving Program, upon application and receipt of fees by a prospective school, may waive the requirement for an applicant school to have an Arizona office and obtain commercial general liability insurance until

the certification process is complete to a point that a certification date can be definitively projected. The school must then fulfill these requirements before certification is issued.

5. Local Business Office and Local Telephone Service

Each school shall maintain a business office within the State of Arizona. Code Section 7-205 requires the school's business be transacted through the Arizona office. The school may conduct certain specified functions through other offices if approved in the business plan prior to implementation, and provided the functions are performed in compliance with all applicable provisions of Code Section 7-205. For example, registration may be conducted through a national office, or center, provided the records are then duplicated for retention at the Arizona office, or are available to the Arizona office in an on-line format. Student records specific to Arizona must be retained in this state for inspection as required, including eligibility affidavits, court orders, citations, student evaluations, registration and class completion information. The school shall make any and all records available for inspection upon demand, without notice.

6. Management Representation

Each school must maintain a management level employee or representative within the state who has contracting and decision making authority on behalf of the school.

7. License to Conduct Business in Arizona

Each school must maintain all licensing required to legally conduct business in Arizona and operate in full compliance with all Arizona rules, statutes or ordinances. The Defensive Driving Program does not provide advice or information on legal matters. Information can be obtained from, among others, the Arizona Corporation Commission and the Arizona Department of Insurance.

8. Curricula and Updates to Curricula

Each school must maintain an approved Arizona-specific curriculum and program that meet all requirements and monitoring standards set by the Defensive Driving Program. Applications for alternative delivery shall be accompanied by a script of the proposed program for initial review. The Defensive Driving Program requires curricula to be specifically designed for

Arizona, accurate in all points of Arizona laws as required, and in defensive driving techniques. The Defensive Driving Program is the final authority for matters of material accuracy for classes presented on behalf of the state of Arizona.

After the script has been approved, the applicant shall produce and submit the program to the Defensive Driving Program for review and approval. The program must exactly match the approved script.

9. Changes to Lesson Plan or Program

After approval and acceptance, the lesson plan and program may not be changed in any way without the prior approval of the Defensive Driving Program. The Defensive Driving Program may require a school to make changes to any curriculum or program at any time, if determined necessary. Once notified, a school must complete required changes and replace all obsolete product or programs within 45 days for written or internet-based materials, and within 90 days for video materials.

10. Operational, Financial and Administrative Processes

All operational procedures and processes must be pre-approved in writing by the Defensive Driving Program and once approved, may not be changed in any way until written approval of the changes is obtained from the Defensive Driving Program.

11. Instructors and Training

Alternative Delivery schools must maintain a sufficient staff of Arizona Defensive Driving Program-certified instructors to provide prompt answers to students with questions. The instructors must be available 8:00 am through 9:00 pm, each day the course is available for student work, local time for the student. The instructors must meet all certification and continuing requirements of the program regarding training and experience. Materials provided to students must include phone numbers and/or e-mail addresses of the available instructors to allow students to receive answers to their questions quickly and efficiently. Students should be encouraged to call or e-mail with questions and the process required to make direct contact with an instructor shall not be an impediment to students desiring to do so.

12. Instructor Experience Requirements

Each classroom instructor is required to complete a minimum of 40 classroom hours each year for eligibility to obtain re-certification for the following year. Instructors who do not teach concentrated material in the classroom (instructors who only are on duty to answer called in or e-mailed questions) do not obtain a comparable level of experience from the same amount of hours on duty. Each instructor who does not present Arizona-specific course material in a classroom setting may substitute the required hours at the rate of 8 to 1, or a minimum of 320 hours on duty each instructor certification year.

13. Instructor On Duty Schedules

ADM schools shall provide accurate schedules of on-duty instructors for monitoring purposes. Program monitors may call on-duty instructors at any time and ask questions on course material. Failure to answer questions correctly may result in disciplinary action against the school and instructor. Questions asked may include specific questions on Arizona traffic laws and defensive driving topics. Instructor schedules shall be provided to the defensive driving program once each month and shall be corrected as necessary to maintain them in an accurate condition.

14. Validations Required

Schools must demonstrate that adequate security measures are in place (i.e., cannot be circumvented by the general public) to: validate student identity at registration and throughout the course, validate participation throughout the course, validate that time requirements are met, and validate successful completion of the course.

15. On-Site Testing

On-site testing is the standard for the Arizona Defensive Driving Program for purposes of validation of student identity and participation in the course. Within 7 days after completion of the course, each student must be physically identified in person through a comparison of the person's driver license or identification card in compliance with Code Section 7-205 and each student must be immediately tested at the same location and time, to determine definitively the student is actually the person who completed the course. Each test must contain a minimum of 50 questions. Each student must pass 25 course content questions with at least an 80% correct score. In

addition, each student must answer 25 course environment questions with at least a score of 90% correct. No retests are permitted. Any student who fails the test shall be referred back to the court or to a classroom course if time permits. State Fees for any student failing the required test shall not be refunded but shall be forwarded to the Supreme Court, Defensive Driving Program. The testing proctor shall ensure that the person taking the test is both the person who was cited and the person who completed the course.

16. Alternatives to On-site Testing: In-Course Validation Questions

Schools may propose an alternative method of ensuring student identity validation and that participation in the course meets Arizona standards. The defensive driving program may approve proposed alternative methods if the school can demonstrate the proposed method meets the requirements of code section 7-205 and provides the same standard of identity and participation assurance as the standard method outlined herein. Schools must positively ensure the person taking the course is in fact the person cited. While engaged in the course, and if on-site testing for identity and participation validation is not used, validation questions must be answered correctly by each student in at least three minimum areas; identity verification, course environment verification, and course content questions. Identity verification questions are personal information questions only the student should be able to answer. Course environment questions are questions about the course itself that only someone who has viewed the course can answer. Course content questions are questions developed to establish the student has learned the material presented. At least fifteen questions in each category must be used in order to ensure the student has participated in the course completely and has learned the material. Students must answer 90% of the identity questions and 90% of the course environment questions correctly on the first attempt in order to be permitted to continue to the final in-person test phase of the course.

17. Method for Validation Questions

Schools must reveal the method used to compile and assign validation questions. Information compiled for validation questions must be drawn from several independent databases, and may not be supplied by the program participant.

18. Disclosure

Schools must disclose the number of personal validation questions asked and the procedures for ensuring random use throughout the course. Validation questions must be asked throughout each segment of the course.

19. Time Limits for Validation Questions

Schools must limit the time available for students to respond correctly to each validation question to no more than 30 seconds for each question.

20. Prior Approval for Test Questions

All test questions and identity verification processes must be approved by the Defensive Driving Program prior to use or once approved, prior to any change.

21. Test Failure by Students

Any student who fails to pass any of the required tests at the scoring levels specified shall not be issued a completion certificate or reported as completed to any court or entity.

22. Course Completion Requirements

Each student shall participate in completion of a program for a minimum time of 330 minutes or 5.5 hours. Students must complete an alternative delivery course in no more than two subsequent sessions. Once a student begins the program, the two sessions must be completed within seven days. Students must be actively engaged in the curriculum or program; this time may include the time used to test the student's knowledge and retention of the material, but does not include time spent for identity or participation validation processes. All alternative formats shall have approved processes in place to ensure the time in the course is at or in excess of the active minimum time required; for example, an Internet delivery method shall have programming that tracks the time each student actively spends in the course, and shall not permit any student to complete the course in less than the required time. No student shall be issued a completion certificate or reported to a court as completed unless the student has been actively involved in approved course work for a minimum of 5.5 hours or 330 minutes, and has correctly answered the requisite number of validation and

course content questions as required by these policies and/or passed the final examination.

23. Final Testing

If a school proposes (or uses) a method other than the standard method as specified in these policies (on-site testing), a content knowledge test must be administered to each student before completion of the course. The test must include a minimum of 50 questions and the student must answer at least 40 (or 80%) correctly. Students not passing the final test may be allowed to repeat the course one time. If they fail the final examination a second time, the student may not be issued a completion certificate.

24. School Accounting Procedures

Schools shall follow all accounting requirements in Code Section 7-205. Schools that offer programs for non-Arizona courts (national programs) must establish a separate account for public funds, and the school shall deposit all Arizona court fees in this separate account until the time the fees become payable to the courts or are refunded with the approval of the courts. All fees collected on behalf of Arizona courts must be recorded and accounted separately from other funds contained in the public funds account required by this policy. School funds shall not be co-mingled with public funds.

25. Class Start Time

For self-paced alternative delivery options, for example, Internet or correspondence courses, the student has begun the course at the time registration is completed and the program's lesson plan content has been accessed for the first time.

26. Student Requirements and Notifications

Schools shall notify each prospective enrollee of all requirements, policies and procedures for participation in the course, including hardware/software requirements, costs, payment method, privacy/confidentiality policies, requirements for successful completion and the criteria for failing the course, and penalties for fraud. The eligibility affidavit must be presented and accepted. Schools shall specifically include notice of the requirements that a final failure in testing results in no credit for the on-line course. The

alternative delivery school shall also notify the student that acceptance of terms means no refund is possible after beginning the course, as defined herein, except in cases where technical problems exist with the citation that cannot be corrected under Arizona Rules of Court. The student shall be afforded the option to stop the process without a fee at any time before beginning the course. A student may be permitted to begin the course only after the student has accepted the required terms and conditions.

27. Student Fee Payment

All fees must be collected before students are allowed to begin a course. Once a student begins a course with a school, the school is responsible for payment of fees regardless of whether the fee has been collected from the student (Also refer to Section 25: Class Start Time).

28. Completion of Out-of-State Students

The completion date for each on-line student shall be the date of actual completion. Code Section 7-205(D)(11)(e) requires schools enter the completion date for an out-of-state student as the date the school receives the required completion documentation for that student (a person residing in a state other than Arizona who has received an Arizona citation while traveling through the state). These requirements address and allow for the mailing time required for a classroom school to receive the paperwork and places the responsibility for timeliness upon the student. This is not necessary for an on-line school and therefore this requirement is eliminated.

29. Students Caught Cheating or Failing to Pass Tests

Schools shall actively seek to identify dishonesty or cheating by the participants of alternative delivery courses and shall record and disclose their processes to do so. When identified, cheating students shall not be permitted to continue the course or complete the course and shall be reported to the Defensive Driving Program and the court of jurisdiction for action as determined necessary by the Defensive Driving Program or the court of jurisdiction. Participants who do not pass content knowledge or validation tests or both shall be refused completion and referred to the court of jurisdiction and reported to the supreme court.

30. Certification Process Course Demonstrations

The course demonstration process for ADM applicants shall be modified by the program manager to satisfy the intent of the course demonstration process, that the course as presented meets the standards for Defensive Driving Program classes in Arizona. For example, for an Internet course, Defensive Driving staff will be permitted to take the Arizona-approved course in order to evaluate the content and the security and validations included. Typically, several staff will participate in the course and will attempt to cheat or break the validations of the program.

31. Security of Facilities

Technical facilities (ISP-host, data storage and support systems) must be housed in secure facilities, and all information must be inaccessible to unauthorized parties. The information contained in the defensive driving tracking system is not a public record and must be guarded as confidential.

32. Technical Assistance

Instructors shall possess and maintain adequate knowledge of the technical aspects of the program to effectively deal with students' technical difficulties as well as content questions, or, technical staff shall be available at all times the course is available to students. Instructors and technical staff, as utilized, must be available telephonically at all times as required by these policies.

33. System Availability

Maintenance, upgrades and repairs to a server or system shall not interrupt customers who are on-line taking the course. Students shall be notified immediately of technical difficulties as they arise, including an estimate of the length of time the system will be down.

34. System Reliability

Delivery of internet-based courses must be reliable in the degree that students are able to complete their course of study within the time allowed by the court. Excessive technical problems or downtime which results in completion problems for students must be corrected immediately. Failure to

provide access at a reliable and reasonable level may result in disciplinary action against the school. Technical problems must be corrected and systems made available for use by students after technical problems or maintenance within 24 hours of system problems or shut-down.

35. Access to Assistance and Support Functions

Students shall be able to obtain access to a certified instructor or a technical staff member within five minutes during those times required by these policies.

36. Correction of Problems

Problems shall be addressed and solutions implemented in order to maintain the quality of the course and responsiveness to student and court needs. Failure to comply is cause for disciplinary action up to and including revocation of certification.

37. Confidentiality

Confidential student and course records, including testing and validation questions and information, shall be protected as necessary to ensure their security is not compromised. Course owners must ensure the security of all student data and school records, both physically and electronically, to prevent inadvertent or unauthorized disclosure of any confidential data or information.

38. Records Retention

Student records shall be retained as required by code section 7-205 and shall include all facts pertinent to ensuring these standards are met for each student, including a record of validation and course content questions used including dates and times, and which were answered correctly or incorrectly, the complete electronic footprint of the students' participation in the course including log-in and log-out times and evidence that the students' time engaged was in active participation, and a record of each student's performance on final testing and retest if required. Final disposition of each student, pass or fail, shall be retained for each student, and the reason for any failure or suspension.

39. Student Failure Disclosure

Schools shall disclose the procedure used to handle students who fail validation or course content questions or tests.

40. Self-review

Schools shall establish, follow and disclose procedures for self-review or audit of the school's validations processes as required herein.

41. Completion Certificates

Course completion certificates may not be issued by a third party, but must be completed and issued by the certified school.

42. Consumer Notification

Schools shall notify each prospective enrollee of all requirements, policies and procedures for participation in the course, including hardware/software requirements, cost, payment methods, privacy/confidentiality policies, requirements for successful completion and the criteria for failing the course, and the penalties for fraud.

43. Required Fees and Documents

Schools must secure payment of all fees and have all required documents physically in-hand prior to the student beginning the course. Students must indicate acknowledgment and acceptance of all terms and conditions.

44. Advertisements

Commercial advertisements are not permitted during the course.

45. Rules for Completion (Time Allowed)

Students shall be notified that regardless of technical or other difficulties that may be encountered, courses and required testing must be completed within the time allowed by the court of jurisdiction and in compliance with Arizona laws and rules. Regardless of circumstance, no refund is permitted for state fees if the student fails to successfully complete the course during the time allowed absent another valid reason for refund as provided by Arizona code of judicial administration section 7-205.

46. Collection of Student Data

Prior approval must be obtained from each student for any third-party data to be collected concerning the student and their participation in a defensive driving program

PART IV DEFENSIVE DRIVING STATUTES

DEFENSIVE DRIVING STATUTES

A.R.S. ' 12-114; Surcharge on court ordered diversion programs for traffic offenses; deposit

A. If a court authorizes individuals charged with civil or criminal traffic offenses to attend a court authorized diversion program, including a defensive driving school program, it shall require the assessment of a five dollar surcharge on the fees charged by such court authorized diversion programs.

B. A court or a court authorized diversion program shall collect the five dollar surcharge and remit the surcharge to the supreme court which shall transfer the surcharge to the state treasurer for deposit in the judicial collection enhancement fund.

A.R.S. ' 28-3391; Definition of court

In this article, unless the context otherwise requires, A court@means a juvenile division of the superior court, a justice of the peace court or a municipal court.

A.R.S. ' 28-3392; Defensive Driving School; eligibility

A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2 through 15 of this title, or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. May allow an individual who is issued a citation for a violation of 28-701.02 to attend a defensive driving school.

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within twenty four months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

C. Notwithstanding subsection A of this section, an individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.

A.R.S. ' 28-3393; Defensive driving school attendance; primary provider

A. An eligible individual who elects to attend a defensive driving school shall attend one of the following within the time allowed by the court:

1. A defensive driving school that is a primary provider for the court having jurisdiction over the civil or criminal traffic offense.
2. If the court does not have a primary provider, any defensive driving school.

B. A court:

1. May select more than one primary provider.
2. May select a primary provider for defensive driving schools using more stringent criteria than required for state certification.
3. On application of an eligible traffic offender, shall permit the offender to attend another defensive driving school on the showing of reasonable justification by the offender. Reasonable justification includes the fact that the offender resides in another area and that attendance at the court's primary provider school creates a hardship on the offender.

A.R.S. ' 28-3394; Successful course completion

A. If an eligible individual successfully completes the course at a defensive driving school:

1. The court shall dismiss the civil or criminal traffic citation for which the individual attended the school.

2. The department shall not include a record of the civil or criminal traffic citation for which the individual attended the school on the individual's driving record.

B. The dismissal of a civil or criminal traffic citation pursuant to this section does not preclude the introduction of evidence pertaining to the issuance of the citation in a civil or criminal proceeding.

A.R.S. ' 28-3395; Supreme court authority and duties; rules; record

A. The supreme court may contract with a public or private agency that does not provide defensive driving schools in this state pursuant to this article to provide assistance in carrying out the duties of this article.

B. The supreme court shall:

1. Supervise the use of defensive driving schools by the courts in this state.

2. Make public the amount of the court diversion fee assessed by each court in this state pursuant to this article and the total cost to attend a defensive driving school in each court.

3. Establish an automated statewide data base for keeping a record of persons who attend a defensive driving school.

4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.

5. Establish procedures for courts and schools to remit reports that are required by the supreme court.

6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.

C. The information contained in the data base required by this section is not a public record.

A.R.S. ' 28-3396; Court diversion fee

A. The presiding judge of each court shall:

1. Set the amount of the court diversion fee that an individual who attends a defensive driving school may be assessed.
2. Immediately inform the supreme court in writing of the amount of the court diversion fee that is established for the court and the total cost to attend a defensive driving school.
3. Immediately inform the supreme court in writing of any changes in the total cost to attend a defensive driving school.

B. Payment of the court diversion fee is in lieu of payment of a civil penalty or criminal fine that is imposed for a traffic violation.

C. The driving school shall collect the court diversion fee before or at the time an individual attends the school. On receipt of the diversion fee, the defensive driving school shall transmit the fee promptly to the appropriate court pursuant to procedures prescribed by the supreme court.

A.R.S. ' 28-3397; Additional fees; disposition

A. In addition to the court diversion fee and the fee for the cost to attend a defensive driving school, a person who attends a defensive driving school pursuant to this article or by a court order shall pay a fee of not more than fifteen dollars that is established by the supreme court.

B. Before or at the time an individual attends a defensive driving school, the school shall collect the defensive driving school fund fee established pursuant to this section and the fee, if any, charged by the defensive driving school for the course.

C. The defensive driving school shall transmit the fee established by the supreme court pursuant to this section to the supreme court. The supreme court shall transmit the fee to the state treasurer. The state treasurer shall deposit the fee in the defensive

driving school fund established by section 28-3398 pursuant to procedures established by the supreme court.

A.R.S. ' 28-3398; Defensive driving school fund

A. A defensive driving school fund is established in the state treasury consisting of monies collected for the fee established by the supreme court pursuant to section 28-3397.

B. The state treasurer shall transfer the monies in the fund on the last day of each month to the supreme court to be used to supervise the use of defensive driving schools by the courts in this state and to expedite the processing of all offenses prescribed in chapters 3 and 4 of this title.

C. The fund established in this section is not subject to reversion. On notice from the supreme court, the state treasurer may invest and divest monies in the fund as provided by section 35-313. The state treasurer shall credit all interest earned on the fund monies to the fund.

A.R.S. ' 28-3399; Audit

The supreme court may require a defensive driving school to be audited for compliance with the requirements of this article.

APPENDIX

DEFENSIVE DRIVING PROGRAM - Tracking System

Hardware and Software Requirements

In order to be certified, a school must demonstrate the ability to communicate with the Arizona Supreme Court's Defensive Driving Tracking System (DDTS). The equipment necessary to do this includes an IBM PC or compatible with the following features:

Minimum Equipment

Pentium or Pentium Pro (500mhz)

32 MB of RAM

1G free on hard drive

56K Hayes compatible modem

Dedicated phone line without Call Waiting or a rollover line

Windows 95 or later

In addition, all schools must have and maintain a continuous internet connection that is compatible with the Supreme Court's information network and Defensive Driving Tracking System, and internet e-mail capability.

Tracking System

B. Data Requirements

The following data elements are required for the Defensive Driving Tracking System:

Student Information

Last Name

First Name

Middle Initial

Birth Date

Driver's License Number or MVD identification card number

Issuing State of Driver's License

Citation Information

Citation or Court Docket Number

Program Code

Court Code

Violation Type

Violation Date

Violation Code

School Information

School Code

Receipt Date

Course Completion Date

Completion Type

Fee Schedule

DEFENSIVE DRIVING PROGRAM - School Certification Fee Schedule

Effective April 2, 1993

Certification fees must be submitted by check or money order, payable to the Arizona Supreme Court. The Defensive Driving Program reserves the right to require payment by cashier's check or money order only. Submit fees with the appropriate application for initial certification or renewal, according to the following schedule:

Initial School Certification Fee: \$500.00

Renewal, School Certification:

(Renewal fees are based on the number of students completed in the prior fiscal year, or portion of fiscal year the school was conducting business as an Arizona-certified school.)

<u>Number of Completions</u>	<u>Amount of Fee</u>
0 - 250	\$50.00
251 - 500	\$75.00
501 - 2,000	\$100.00
2,001 - 5,000	\$150.00
5,001 - 10,000	\$175.00
10,001 - 15,000	\$200.00
More than 15,000	\$250.00

Insurance

DEFENSIVE DRIVING PROGRAM - Insurance Requirements for Schools

Each school seeking or holding certification must purchase and maintain **Commercial General Liability** insurance with minimum limits of \$1,000,000 per occurrence, and minimum unimpaired Products and Completed Operations aggregate and General Aggregate minimum limits of \$1,000,000. Coverage shall be at least as broad as the Insurance Service Office, Inc. Form CG00010196, issued on an occurrence basis. The policy shall include coverage for:

Bodily Injury

Broad Form Property Damage (including completed operations)

Personal Injury

Blanket Contractual Liability

Products and Completed Operations

Fire Legal Liability

Each policy must name the State of Arizona and the Arizona Supreme Court as additional insured parties.

The insurance company issuing each policy must be licensed to do business in the state of Arizona.

The insurance company issuing each policy shall have and maintain an A.M. Best, Inc. rating of A VII or better.

Each school shall provide evidence in the form of an original Certificate of Insurance (no photo-copies) on the industry-standard Acord form, including endorsements naming the State of Arizona, the Arizona Supreme Court and each court contracted with as additional insured parties.

The policies required shall include a provision that coverages afforded will not be cancelled or materially altered until at least 60 days prior

Insurance

written notice has been given to the State of Arizona, the Arizona Supreme Court and each court with which the school has a written contract.

If the contractor is the State of Arizona, its departments, agencies, boards and commissions, then the above shall not apply.

Courts or their funding authorities have the authority to require additional or different coverages in order to comply with local rules or practices.